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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 2000/14

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Summary

A highlight of this report is the Cuban Government's analysis of the origin and persistence of racism and racial discrimination, as well as of the measures intended to combat these scourges in the context of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

The Special Rapporteur, for his part, has drawn attention to the manifestations of anti-Semitism which have occurred in Australia, Austria, Germany, Russia, Ukraine and the United Kingdom. He also deals with racist violence and the activities of far-right and neo-Nazi organizations in Austria and Norway.

He also discusses racial discrimination in the application of the death penalty in the United States of America, environmental racism and racial discrimination in efforts to curb the drug traffic in that country and presents information on the situation of the Dalits in India.

The allegations examined by the Special Rapporteur concern Austria, Canada, Colombia and Israel.

As regards the follow-up of field visits, the report contains information on the measures envisaged in South Africa to eliminate the consequences of apartheid, on the situation of the Roma in the Czech Republic and Hungary and on the rise of the far right in Romania.

The Special Rapporteur also discusses the measures taken by the Governments of Germany and Switzerland to curb racist propaganda and the activities of organizations or individuals that incite racial hatred.

* * *

Introduction

1. This report has been submitted in accordance with resolution 2000/14 (III) adopted by the Commission on Human Rights at its fifty-sixth session. It should be read in conjunction with the report submitted by the Special Rapporteur to the General Assembly at its fifty-fifth session (A/55/304).

2. It comprises seven chapters and contains information on the activities of the Special Rapporteur in 2000 (chap. I); on the measures taken by Governments (chap. II); on contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance (chap. III); on the replies to allegations communicated to Governments (chap. IV); on the follow-up of field visits and the legislative, judicial or other measures taken or envisaged by Governments (chap. V); and, lastly, action by civil society (chap. VI). The last chapter of the report, chapter VII, contains conclusions and recommendations.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Participation in the work of the fifty-fifth session of the General Assembly

3. In introducing his report to the General Assembly at its fifty-fifth session (A/55/304), in October 2000, the Special Rapporteur described the Freedom Party (FPO), which was a member of the coalition in power in Austria, as a notoriously xenophobic and racist party. The Austrian delegation expressed reservations about this description to the Special Rapporteur, challenging the xenophobic nature of Jörg Haider's party; it maintained that it was a populist party of the right with extremist views, which had used xenophobic language only during the electoral campaign, after which it had entered the Government. The delegation promised to communicate to the Special Rapporteur a transcript of what it said as well as other information with a view to its inclusion in the present report.

4. However, the Special Rapporteur would point out that the conclusions reached by the three sages, namely, Martti Ahtisaari, Jochen Frowein and Marcelino Oreja (appointed in September 2000 by the European Union to look into Austria's compliance with its obligations to protect human rights), concerning FPO do not call in question the opinion he formed on the basis of the information available to him on the activities of this party. Indeed, the three sages noted that the leaders of the FPO are former members of the Austrian National Socialist Party, which has constantly militated against the presence of foreigners in Austria; they also noted that these leaders freely use language that can be described as xenophobic and even racist. Furthermore, in the eyes of international public opinion, Jörg Haider incarnates the Austrian far right, as was shown by the violent demonstrations that marked his recent visit to the Vatican, where he received a cool welcome from Pope John Paul II and a message against racism and xenophobia in connection with the International Day of Peace to be held on 1 January 2001. The Special Rapporteur will therefore continue to follow developments as well as the activities of FPO.

5. In introducing his report to the General Assembly, the Special Rapporteur, on the basis of newspaper, radio and television reports, deplored the witch-hunts targeting Blacks which had

occurred in September 2000 in Libya. The Libyan representative reacted by maintaining that the incident had involved the repatriation of 600 criminals by the Libyan Government. However, the Special Rapporteur still comes across newspaper reports to the effect that:

> "It was difficult for the Libyan authorities to maintain for very long their rather anodyne version of the dramatic events that had taken place at Ezzaouia at the end of September. Six people died (one of whom was a Libyan). This official figure was very quickly refuted by the survivors of the pogrom who managed to leave the Jamahiriya. In point of fact, several hundred immigrant African workers were killed. In order to maintain good relations - obviously motivated by self-interest - between their respective Governments and Libya, the African chancelleries at first remained silent, content to accept at face value the explanations presented by Ali Abdesalam Triki [the Libyan Government's official responsible for African questions]. (...) However, the tidal wave of immigrants seeking refuge in embassy compounds and the complaints of non-governmental organizations eventually revealed the seriousness of the situation. Abuja then chartered a plane which, in the course of seven trips, evacuated 450 Nigerian nationals. Almost 5,000 others are waiting to leave the former Libyan eldorado. John Jerry Rawlings, the President of Ghana, went to Tripoli to recover his nationals. Sudanese and Chadians are also leaving the Jamahiriya in droves. The 2 million Africans residing legally in Libya are completely terrified (...) President Ghadaffi at last broke his silence during a visit to Damascus. Two ministers have been designated as scapegoats: Fawzia Chalabi, who is being relieved of his functions as Minister of Information (the Leader blames him for lack of communication during the Ezzaouia incident) and Mohammed Belkacem Yaoui, Minister of Justice and the Interior, who is also being fired ..." (see Jeune Afrique of 17 to 23 October 2000).

6. The Ivorian daily Fraternité-Matin of 22 November 2000, refers to "serious incidents in Libya (killings, pillaging, expulsions)," and reports that:

> "Immigrants said that they were victims of racist attacks resulting in deaths, expulsions and repatriation for the luckiest. (...) immigrants from sub-Saharan Africa, and especially nationals of Burkina-Faso, Cameroon, Ghana, Niger, Nigeria, Sudan, Chad and even Côte d'Ivoire, were treated by locals and particularly by young "rebels" in a way reminiscent of apartheid. The authorities, who attribute this violence to clashes between gangs from black Africa, expelled several thousand back to their countries of origin."

The same issue of Fraternité-Matin, under the heading "Mémoire", contains the following:

> "The endangered dream of the colonel who, rightly or wrongly, is regarded by the West - and even by some Africans - as the great defender of the African continent, the dream of the Libyan colonel to see a frontier-free continent (ever since the proposal for an African Union was adopted at the thirty-sixth summit of the Organization of African Unity at Lomé, Togo, in July 2000, at the instigation of Colonel Ghadaffi) has melted away like snow in the sun as a result of violent brawls between young Libyans and African Blacks living in Libya. This drama, which resulted in several deaths, including two Ivorians, among the Black African population, was triggered by nothing more than a

squabble about a football match - the king of sports - that degenerated into a pitched battle between young Libyans and Nigerians at the beginning of September and spread to all Blacks living in Libya a few weeks later."

7. In its issue of 24 October to 1 November 2000, the Jeune Afrique weekly also gives as the cause of the "xenophobic explosion" the "rape of a young Libyan girl", or "the murder by tactless African tenants of their landlord".

8. Colonel Ghadaffi, eulogizing African unity and attempting to pour oil on troubled waters, stated that "we should not lay ourselves open to the enemies of our cause (African union) who are taking advantage of tragic events to divide us (...). The September rioters will be judged". However, an OAU mission of inquiry headed by Emile Derlin Zinssou, the former President of Benin, accompanied by a dozen journalists, was confined to a hotel from 18 to 20 November, their only link with the outside world being a television set broadcasting only in Arabic and a telephone which could not be used to make international calls (Jeune Afrique l'intelligent of 26 November to 4 December).

9. While drafting this report in Geneva, the Special Rapporteur had a working meeting on 19 December with the Libyan chargé d'affaires attached to the United Nations, who happens to be the representative of Libya who reacted in the General Assembly to the reference made to the events described above. She confirmed that the Africans sent back to their countries were criminals but that there had been 362 of them. She affirmed that the incidents that took place in Libya were not the exception; that brawls sometimes broke out between Africans and Libyans as well as between Libyans themselves; and that the incident in question reflected the reaction of a traditionalist society that was disgusted by the immoral behaviour of immigrants taking various forms (trafficking in alcohol, drugs and counterfeit money, as well as rape and procurement). She added that the reaction of the Government and that of the population had targeted certain African outlaws and was not xenophobic or racist in nature, since Africans were still living in Libya. Moreover, she pointed out that half of Libya's population was Black. She promised to transmit to the Special Rapporteur the list of criminals who had been arrested and sent home or who were being tried, together with the charges brought against them. The Special Rapporteur was informed of the measures taken by the Government: (a) creation of a committee to look into the events that had taken place and to study all manifestations of xenophobia; (b) meeting between members of the Government and ambassadors accredited to Tripoli; (c) establishment of a joint committee, under the auspices of the Ministers of African Unity, comprising the Minister of Justice and OAU representatives; (d) undocumented immigrants were given six months to regularize their situation.

10. The promised documents had not been received at the time this report was finalized. The Special Rapporteur was appreciative of the atmosphere that prevailed during the meeting and will pursue the dialogue with the Libyan authorities, whom he urged strongly to take appropriate measures to prevent the recurrence of the tragic events of September 2000 in the interest of peace and the incipient African union.

11. During his stay in New York the Special Rapporteur also participated, on 24 October 2000, together with Mrs. Mary Robinson, the United Nations High Commissioner for Human Rights, in a ceremony at which a petition was presented by a number of American

human rights militants. This petition, entitled "A call to action to the United Nations", asks the United Nations to act against racial discrimination in the administration of justice in the United States and to request that country to assume the obligations it assumed by its ratification of the International Convention on the Elimination of All Forms of Racial Discrimination.

B. Examination of the situation in Côte d'Ivoire

12. International public opinion has for several months been aware of political developments in Côte d'Ivoire. The struggle for power has, among other things, given rise to suggestions and allegations of xenophobia. The Special Rapporteur considered it desirable, while the present report was being drafted, to meet with the representative of Côte d'Ivoire to the United Nations in Geneva; a working meeting was held in the Office of the United Nations High Commissioner for Human Rights on 19 December.

13. The Special Rapporteur drew the Ivorian Ambassador's attention to the communication he had addressed to the Ivorian Government on 2 February 1996 concerning a tract whose xenophobic contents had caught his attention; he gave the Ambassador a copy of the tract to which the Ivorian Government had not so far reacted (E/CN.4/1997/71, paras. 82-84). The Ambassador informed the Special Rapporteur of the action his Government had taken spontaneously with the Office of the United Nations High Commissioner for Human Rights and the United Nations Secretary-General to clarify the situation prevailing in Côte d'Ivoire. He stated and emphasized energetically that Côte d'Ivoire had always been and remained a country known for its welcoming and hospitable nature. People from all parts and particularly from Africa south of the Sahara accounted for 42 per cent of its population. The allegations of xenophobia made and put about against Côte d'Ivoire had their origin in the strange blend of religion, regional origin and politics concocted by a pretender to the highest office in the land. This political personality, according to one of the Special Rapporteur's sources, stated that "my candidature for the office of president was rejected because I am a Muslim and from the north". The international press allegedly, for no apparent reason, and on the basis of criteria for the acquisition of Ivorian nationality, generally known as "Ivoirity", spread the idea that foreigners were being turned away or that people from certain regions were being excluded and, consequently, that xenophobia existed in Côte d'Ivoire. A campaign is allegedly being orchestrated against Côte d'Ivoire with the result that Ivorians, who are by nature and tradition integrationist, are increasingly demanding reciprocity from the other countries where Ivorians live. According to this diplomat, there is danger that, if Ivorians are constantly accused of being xenophobic, they will become so, whereas President Laurent Gbabgo, in his investiture speech, promised that Côte d'Ivoire would remain a country of welcome and hospitality.

14. The Special Rapporteur took good note of the Ambassador's statements and assurances. Realizing that foreigners from neighbouring countries felt themselves increasingly threatened and that there was a mood of xenophobia following the presidential and legislative elections, the Special Rapporteur suggested to the Ambassador that the Government, with the active cooperation of civil society and in particular the heads or representatives of various associations of persons of foreign origin, should embark upon a campaign to reassure both sides, to counter xenophobic inclinations and to dissipate any misunderstandings that might give rise to xenophobia. The Special Rapporteur will follow developments in this field in Côte d'Ivoire and pursue the dialogue with the Ivorian authorities.

C. Missions envisaged by the Special Rapporteur

15. Although the Special Rapporteur's visit to Australia had to be postponed for a number of reasons (see A/54/347, para. 17, and A/55/304, paras. 20 and 21), the Australian Government informed him of its desire to receive him during April 2001. The Office of the United Nations High Commissioner for Human Rights, in cooperation with the Permanent Mission of Australia in Geneva is at present making practical arrangements for this visit. Its purpose will be to deal with the main concerns previously raised by the Special Rapporteur, namely, the effects of the Native Title Amendment Act, 1998, the intra-Australian reconciliation process, the measures taken on behalf of Aborigines removed from their families during childhood and forced to assimilate the European way of life (Lost Generation), and the situation of young Aborigines up against the judicial system. The Special Rapporteur will also obtain information on the Australian policy of multiculturalism and on inter-ethnic relations.

16. On the basis of allegations received concerning the situation of several ethnic groups in Canada, particularly in the province of Nova Scotia, the Special Rapporteur informed the Canadian authorities of his desire to look into the cases brought to his attention on the spot. The Canadian Government replied favourably to this request and made a point of recalling its standing offer to all special rapporteurs to visit Canada if they so wished.

II. REPLIES OF GOVERNMENTS TO THE SPECIAL RAPPORTEUR'S REQUEST FOR INFORMATION

17. In accordance with paragraph 29 of resolution 2000/14, the Special Rapporteur addressed a circular letter on 29 June 2000 to Governments, organizations of the United Nations system and non-governmental organizations. This chapter includes the main points of the replies relating specifically to the Special Rapporteur's mandate which were received from the Governments of Belarus, Cuba, Netherlands, Qatar and Spain. The Special Rapporteur also received from the Governments of Cyprus, Japan and the Slovak Republic copies of periodic reports they had recently submitted to the Committee on the Elimination of Racial Discrimination; these reports contain useful information on the various measures taken in these countries and may be consulted under the symbols CERD/C/384/Add.4, CERD/C/350/Add.2 and CERD/328/Add.1. The communication from Israel concerning anti-Semitism is summarized in section A of Chapter III. The communications from Colombia and Hungary relating specifically to the on-the-spot follow-up of missions are summarized in Chapter V. The full text of these communications containing additional information may be consulted in the secretariat of the Office of the High Commissioner for Human Rights. The contributions received from non-governmental organizations (Amnesty International, European Roma Rights Centre and Liberty) have been incorporated into chapters III, IV and V.

A. Belarus

18. The Republic of Belarus has provided general information on its legislation designed to curb racism, racial discrimination, xenophobia and related intolerance, on measures to prevent these phenomena, as well as on anti-Semitism (see chapter III, section A, "anti-Semitism", 30-37). It is stated that:

"The overwhelming majority of the country's inhabitants belong to European ethnic groups. Owing to the absence of any notable social divisions, conditions are not conducive to the dissemination of racist ideas within Belarusian society. Members of national minorities occupy high positions in society by virtue of their prominent positions in the economic, political and cultural life of the country. A good number of basic indicators (level of education, income, etc.) reveal that members of most national minorities are at the same level as Belarusians or even above; this is explained above all by the fact that the size of these minorities has been increased by a large number of highly-qualified migrants from other regions of the former Soviet Union. Belarusian society has remained pluri-ethnic during the past 10 years. The many sociological surveys carried out during the 1990s reveal that the overwhelming majority of Belarusian citizens do not in any way base their choice of friends or political beliefs on national, racial or religious criteria; moreover, the fact that they belong to a certain ethnic group does not have any bearing on their chances of success, professionally, in their careers, etc. Statistics indicate that there is an extremely high proportion of inter-ethnic couples (over 40 per cent). During a national survey conducted in 1997, only 4.5 per cent of respondents stated that they had been victims of discrimination of some kind or other and only 1.5 per cent said that they had experienced discrimination based on their ethnic origin. There is a large body of national legislation that is designed to curb racism, racial discrimination and xenophobia. Any stand in favour of ethnic, racial or religious hatred is prohibited by law; it is regarded as an incitation to discrimination, hostility or violence and the person responsible is prosecuted. Specifically, the Penal Code of Belarus in the chapter on 'Crimes against the State' (art. 71), states that any person who disseminates propaganda that advocates hatred or national, racial or religious discord, that is an affront to national dignity or honour or that calls for privileges or the restriction of rights specifically on the basis of race or national origin or attitude to religion may be punished by imprisonment of six months to three years. In 2000, for example, the editors of the Nacha Niva and Bielorousskaya Dielovaya Gazeta newspapers were warned for having published articles containing statements inciting ethnic hatred."

19. Bodies encouraging dialogue and consensus-building have been established to curb racism, racial discrimination, xenophobia and anti-Semitism. The State Committee for Religious and Ethnic Affairs of the Republic of Belarus was established in 1997. In cooperation with the agencies concerned and with the support of interested associations the Committee, using scientific methods, follows the evolution of inter-ethnic and inter-religious relations, takes steps to increase the awareness of officials of law enforcement bodies and educators and provides them with methodological guidance, in addition to various other measures. The Coordination Council for the National Minorities of Belarus has been established in order to promote the exercise by Belarusian citizens of all ethnic origins of their rights and the formulation of recommendations. This Council, which is subordinate to the State Committee for Religious and Ethnic Affairs, consists of officials of ethno-cultural associations and representatives of ministries and other State bodies, whose activities are connected with the rights and interests of national minorities. It is a special advisory body whose purpose is to ensure that the specific interests of various minorities and of the State are taken into account in the elaboration of public sectoral policies. The Belarusian authorities regard the maintenance of good relations between the country's ethnic groups as one of the major achievements of the past decade. The highest officials of the State, and in particular the President of the Republic, Mr. Lukashenko, have on a

number of occasions stated their position of principle on the subject. Recently, on 10 July 2000, this position was once again reaffirmed by the President on the occasion of the inauguration of the memorial to the victims of the Minsk ghetto, which constituted an event and an act that might well inspire other countries in their efforts to curb racism, racial discrimination, xenophobia and related intolerance.

B. Cuba

20. The Cuban Government reaffirmed its commitment to the struggle against all forms of racial discrimination, based on the 1959 Revolution's intention to create an egalitarian society from the political, economic and social standpoints. A number of legal instruments have been adopted to prohibit the practice of and incitation to racial discrimination (article 295 of the Penal Code). The formation of organizations of a racist nature that engage in racist propaganda is also prohibited by Act No. 54 on associations.

21. With regard to efforts to combat racism and racial discrimination at the international level, the Cuban Government considers that the prevalence of individualistic and discriminatory models of political, social and economic organization which, at the national and international levels, have the effect of exacerbating social exclusion and the marginalization of countries, peoples, ethnic groups, minorities and other categories of social groups and individuals, creates a context conducive to the development of contemporary manifestations of racism and xenophobia. The concentration of wealth has become the main obstacle in efforts to curb racism, racial discrimination, xenophobia and other forms of intolerance. The absence of any real political will on the part of many Governments to promote measures to eradicate racism is apparent, for example, in the formulation of discriminatory migration policies and laws, the legalization of organizations, as well as political parties, based on racist ideas, the proliferation of racist propaganda inter alia by the use of modern technology such as the Internet, etc.

22. In Cuba's opinion, current manifestations of racism, including inter-ethnic conflicts, reflect not only historical factors but also others of more recent origin, such as:

1. The unequal distribution of wealth at the national and international levels, which, in many cases was brought about solely through domination and the use of force;

2. The unjust and anti-democratic international economic and political order, which prevents the overwhelming majority of the world's population from enjoying their rights;

3. The development of ideologies, policies and political groups and parties based on racist and discriminatory ideas;

4. The individualistic approach adopted to the question of the rights of human beings, without relating the duties of individuals, groups and peoples to the enjoyment of rights by the rest of humanity;

5. The colonization that took place on a massive scale during the nineteenth and twentieth centuries and that imposed frontiers reflecting the balance of power

between the imperialist Powers, thereby interrupting historical and social trends, including the equilibrium achieved between ethnic groups in Africa, in an artificial and violent manner;

6. The development of economic processes based on dependence and slavery, and particularly the exploitation of slavery for commercial capitalist purposes on the American continent, which gave rise to the enforced shipment of Africans across the Atlantic;

7. The absence of real political will on the part of the international community to meet the challenges presented by the underdevelopment of the countries of the south. Instead of promoting the harmonious development of different countries and regions, the majority of developed countries have opted for a closed door policy and restriction of the rights of immigrants;

8. The principle of equal opportunities promoted by the liberal bourgeois democracies and by neo-liberal capitalist globalization in the context of a world where inequity prevails has the effect of aggravating and perpetuating inequality. A philosophy of cooperation and solidarity needs to be developed, comprising positive discrimination and affirmative action on behalf of individuals, peoples and nations that have been disadvantaged;

9. The concentration of international economic and political power in a small group of countries, and even in minority sectors within such countries, on which the maintenance of their exclusive and discriminatory political privileges is based;

10. The monopoly control of international media by small private groups in the developed countries, which hamper the media in their important task of acting in the public interest, and the fact that they are used to promote the superiority of the western model of civilization and its political culture.

23. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance should be a milestone in the fight against racism. Cuba attaches special importance to the contributions the Special Rapporteur may make to the preparations for and development of the conference, particularly in the discussion of emerging topics, such as reparation and compensation for the victims and descendants of the victims of slavery and the transatlantic capitalist trade in Africans, which lasted for centuries until only a little over 100 years ago, and which constituted a crime against humanity. The reparation and compensation recently granted to victims and their descendants in the case of the Jewish Holocaust, which took place more than 50 years ago during World War II, shows that there are legal and moral grounds for meeting the just claims of victims of the capitalist slave trade of persons from Africa and all the peoples concerned, whose development was interrupted as a result of the abduction and forced transfer of more than 50 million members of their economically active population, to which was added colonization.

24. With regard to other topics, Cuba would like to bring some proposals to the attention of the Special Rapporteur, which it believes may contribute to the international struggle against the offence of racism, on the eve of the World Conference. These include the following:

1. Establishment of a new economic order, at national and international level, founded on equity, solidarity and social justice, allowing a redistribution of wealth among countries and within countries;

2. Adoption of the target of universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination by the year 2005;

3. Immediate withdrawal by States parties of their reservations regarding article 4 of the Convention and consolidation of the universal prohibition of propaganda of a racist nature and any association founded on such precepts;

4. Development of programmes of positive discrimination at national and international level in favour of countries, peoples, minorities, ethnic groups, races, migrant workers or groups of any kind exposed to discrimination, such as to promote real equality of opportunities and access to all the benefits thereof;

5. A change in the pattern of financing the main activities of the Third Decade, which should be funded from the ordinary budget of the United Nations;

6. Creation of a programming structure within the Office of the United Nations High Commissioner for Human Rights to promote activities in the struggle against racism, racial discrimination and related forms of intolerance. The attention given to this matter by the Research and Right to Development Branch of the Office of the High Commissioner is inappropriate and insufficient. A fourth branch should be created within the Office's structure, which would deal with everything related to combating all forms of discrimination and promoting the rights of minorities, indigenous populations, migrant workers and other vulnerable groups;

7. Further work on the gradual development of international human rights standards, in order to ensure that they give a rightful place to the rights of solidarity;

8. Increased efforts must be made to finalize negotiations of the Draft United Nations Declaration on the rights of indigenous peoples;

9. Promote the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

10. Develop positive action policies and programmes in favour of helping individuals, groups and peoples exposed to discrimination to fully enjoy their rights;

11. Give appropriate priority to general and human rights education programmes, the prime objective of such efforts being the eradication of illiteracy;

12. The Commission on Human Rights should begin preparing minimum international standards to combat racism, racial discrimination, xenophobia and related forms of intolerance, with a view to filling the gap left by the significant number of reservations to the International Convention on the Elimination of All Forms of Racial Discrimination, and the relatively low level of ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. These minimum standards should serve as a guide to the Special Rapporteur in assessing the progress achieved and obstacles remaining in the struggle against racism, racial discrimination, xenophobia and related forms of intolerance;

13. A code of ethics should be developed for international communication media, especially for the functioning of the Internet;

14. An international consensus should be achieved to classify capitalist slavery and the transatlantic trade in slaves of African origin as a crime against humanity and the necessary arrangements should be made to provide moral and material reparation and compensation to the victims thereof and their descendants.

25. The Special Rapporteur considers that the Cuban Government's comments are extremely relevant and that the ensuing proposals deserve very close consideration by the Commission on Human Rights in its preparations for the World Conference against Racism.

C. Spain

26. The Spanish Government referred to the main constitutional and legal provisions forbidding racial discrimination in Spain. It mentioned in particular Organization Act No. 10/1995 of 23 November 1995, which penalizes any form of racial discrimination. It also pointed out that Volume I, Chapter IV, of Organization Act No. 4/2000 of 11 January 2000 on the rights and liberties of foreigners in Spain and their social integration also contains provisions forbidding racial discrimination, particularly by officials, in the areas of employment, education and vocational training, as well as in access to public services and essential social services. The Spanish Government also said that a government delegate had been appointed to take responsibility for coordinating all matters concerning foreigners and immigration, as well as the integration of foreigners.

D. Netherlands

27. The Netherlands have stated that the Government in office since 1998 has given consideration to measures for combating racial discrimination and racism and has tabled a paper before parliament entitled "Providing opportunities, seizing opportunities" (the full text of that paper is available at the secretariat).

> "This contained practical proposals based on the Government's general plans. Basically, these come down to promoting an integrated approach, especially at local level, by a wide range of parties including local authorities, schools, associations, housing corporations, the police and the justice system. Central Government intends to

assist by monitoring developments, providing resources for knowledge centres and organizing conferences for the dissemination of 'best practices'. For example, the Public Prosecution Service's Expertise Centre, the police and the local anti-discrimination centres are to cooperate more closely on the preparation of cases involving discrimination, so that there is a reasonable chance of their leading to convictions. In addition, sentences for racially motivated crimes are to be increased; codes of conduct are to be encouraged in both the private and the public sector, and attempts will be made to extend the geographical coverage and increase the professionalism of local anti-discrimination centres in order to guarantee the public easy access to information and complaints facilities. The new completed merger of several NGOs to produce a new unitary National Bureau against Racism with a broad purview is also part of this approach."

28. This very thorough paper gives detailed information on planned activities in the areas of employment, education and justice. It includes the statement that: "It is also worth noting that there has been a perceptible decline of extreme right-wing parties in the Netherlands. They now have no seats in parliament and hardly any on municipal councils. In the elections for the European Parliament, only 0.5 per cent of the Dutch electorate voted for parties on the extreme right. On 1 July 1999, new legalisation came into force on the funding of political parties. This contains provisions under which parties can lose their right to subsidies and air-time if the courts find them guilty of racist offences. In addition, research shows that racism is declining amongst young people and that they are increasingly interested in people of different cultural backgrounds. Nevertheless, racism and discrimination persist and their eradication demands continuing effort. To keep track of developments, an annual survey of racism and extreme right-wing activity is conducted and report submitted to parliament each year. In addition, the Government commissions more special studies. Examples include the evaluation of the Equal Treatment Act and a study of private-sector recruitment and solution practices in relation to people with a non-Dutch cultural background focusing on the extent to which such practices involve discrimination. Finally, the Internet Discrimination Hotline keeps a close eye on overt expressions of racism on the Web."

E. Qatar

29. The State of Qatar has sent the Special Rapporteur the following statement:

"Orthodox Islam is opposed to racist incidents, xenophobia and discriminatory practices, since it considers all persons equally, without distinction on grounds of race, sex or colour. Similarly, article 9 of the Amended Provisional Constitution of the State of Qatar stipulates that all persons enjoy equal public rights and are subject to equal public duties, without distinction on grounds of race, sex or religion. In addition the State of Qatar has adopted penal, administrative and judicial measures to combat racial discrimination, xenophobia and related intolerance, and to guarantee for all parties in a trial a fair, non-discriminatory judgement. It may be pointed out that the lack of information regarding the implementation of that resolution is due to the fact that incidents of that kind do not occur in the State of Qatar."

III. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

A. Anti-Semitism

1. Information provided by Belarus

30. A few isolated incidents of anti-Semitism did occur in Belarus, but the problem is not widespread and in no way jeopardises the life or health of persons belonging to that community. Several press publications have reported expressions of anti-Semitism in the form of acts of vandalism committed in cemeteries and the appearance of insulting graffiti on buildings.

31. The Slavianskaya Gazeta, a newspaper registered in the Republic of Belarus (but produced in the Russian Federation), published some articles in 1998 inciting national and religious hatred and discord and attacking the religious feelings of believers. In conformity with article 5 of the law on the press and other media, a written warning noting the infringement of Belarussian law was sent on two occasions to the newspaper's management. The Slavianskaya Gazeta was banned at the beginning of 1999. In the spring of 1999, the State Committee for the press of the Republic of Belarus sent a written warning to the newspaper Litchnost for publishing remarks prejudicial to the religious feelings of believers. In 2000, the editors of the newspapers Nacha Niva and Bielorousskaya Dielovaya Gazeta received a warning for publishing articles containing remarks inciting to ethnic hatred.

32. In 1998-1999, acts of vandalism were committed in cemeteries in the towns of Borisov, Retchina, Petrikov, Gomel and Berezino, where persons of Jewish origin are buried. Cemeteries where persons belonging to other ethnic and religious groups are buried have also been subjected to acts of vandalism. Such acts reflect not so much anti-Semitism as shortcomings in the standards of education of young people. In Khinovsk, in the district of Stolin in the region of Brest, at the beginning of 1998, the memorial to the victims of the Ghetto was destroyed; its restoration has been funded by the Stolin District Committee and the State Committee for religious and ethnic affairs of the Republic of Belarus.

33. Other incidents which can unfortunately be described as anti-Semitic have also occurred. In August 1998, the monument commemorating the place where the inhabitants of the Brest Ghetto were executed in 1942 was covered in drawings of Fascist symbols. The desecrator, a child of 15, was identified and sentenced to an administrative penalty. In May 1999, the same monument was desecrated again, that time by a group of youngsters who were prosecuted and sentenced to an administrative penalty.

2. Information communicated by Israel

34. The comments below are based on the report Anti-Semitism Worldwide 1999/2000 by Tel-Aviv University, which is available at the secretariat. In January 2000, the International Forum on the Holocaust was held in Stockholm. Fifty-five heads of State declared that the Holocaust "challenged the foundations of civilization" and that "with humanity still scarred by genocide, ethnic cleansing, racism, anti-Semitism and xenophobia, the international community

shares a solemn responsibility to fight those evils". In March 2000, Pope John-Paul II made a historic pilgrimage to Israel, during which he declared that the Catholic Church "was deeply troubled by anti-Semitism and racism and was determined to denounce those evils and struggle against them". Moreover, Britain's High Court has ruled against British author David Irving in his suit against the American historian Deborah Lipstadt and her publisher, thus repudiating attempts to distort the historiography of the Holocaust.

35. Yet, while these events seemed to promise that the new century would be a great improvement on the previous one in regard to anti-Semitism, an examination of the past decade indicates some troubling trends and there has been a steady increase in anti-Semitic acts (300 incidents in 1994). Despite the continuing decline since then, the number of violent anti-Semitic acts in 1999 was still 100 per cent higher than in 1989. "The level of anti-Semitic activities worldwide in 1999 was similar to that of 1998: 32 major attacks (involving the use of a weapon or explosive) compared to 36 in 1998, and 114 major violent incidents (unarmed attacks on individuals and severe damage to private and communal property) compared to 121 in 1988. Many hundreds more minor incidents, such as graffiti, slogans, personal insults and harassment, were recorded by Jewish communities and individuals worldwide, but were not numerically compared ... in order to avoid distortion of the overall picture, since well-organized Jewish communities have a better monitoring network than less well-organized ones. Also, the identity of the perpetrators, whether hooligans, criminals or ideologically-motivated zealots, is not easily discovered. This multitude of cases, coupled with almost innumerable verbal, electronic and visual anti-Jewish expressions, and frequent debates related to the Jewish people in politics and in the media, continued to exacerbate the situation in 1999."

36. Several recent developments should be noted. One of the most significant was the shift in focus from extremist Muslim anti-Jewish terrorism to violence committed and endorsed by extreme right-wingers holding classic anti-Semitic views. The growing tendency towards ultra-right wing terrorism was evident especially in the United States where, despite a 4 per cent decline in incidents, the summer of 1999 witnessed some of the worst anti-Semitic attacks ever recorded. These included arson attacks on synagogues and a gun attack on a Jewish kindergarten. A similar trend was noted in Russia, where ongoing political anti-Semitism, stemming partly from the weakness in the political system and its failure to enforce existing laws, may have influenced the shift from vandalism to violence, including bombs, arson attacks and an assassination attempt. Consequently, it should be noted that Russian Jews suffered more from anti-Semitic acts and expressions than the communities in Ukraine, Belarus or the Baltic republics. The link between aggressive ideology and propaganda of rightist circles and actual violence was evident in both Russia and the United States. The report by Tel-Aviv University mentions the emergence in Europe (Austria, Germany, Switzerland) of far-right, anti-Semitic parties, a tendency which has been noted elsewhere in this document. A 14 per cent increase in anti-Semitic acts was reported in the United Kingdom, as in Scandinavia (in Sweden, several terrorist attacks were committed by pro-Nazi and anti-Semitic organizations). In Australia, the report notes a decrease in anti-Semitic incidents, although the figure is still 11 per cent higher than the average over the previous nine years. While Canada shows an 11 per cent increase, South Africa and Latin America were relatively quiet in 1999.

3. Other information

37. The Special Rapporteur further notes that the worsening of the Israeli-Arab conflict at the end of 2000 unleashed a series of attacks and anti-Semitic acts throughout the world, especially in Europe. This information confirms the results of the Consultation on Anti-Semitism in Europe Today and the Declaration of Concern and Intent, adopted on 27 March 2000 following a seminar organized by the Secretary-General of the Council of Europe with the cooperation of the American Jewish Committee and the European Union of Jewish Students. The declaration gives poignant expression to the concerns of participants at the consultation. It includes the following passage:

> "Noting with distress that Jews still suffer from prejudices and are victims of a deeply rooted anti-Semitism in most Council of Europe member and other States; distressed by the recent desecration of many Jewish cemeteries, synagogues, and Jewish communal buildings and other property in several Council of Europe member and other States; condemning the continuance of threats against the Jewish population and institutions in several Council of Europe member and other States; gravely alarmed by the development throughout Europe of extremist groups and the dangerous indifference of the majority towards these developments; deeply troubled by the electoral success of far right parties and, in some cases, their presence and participation in coalition governments; noting with concern the resurgence of anti-Semitic feelings in countries when a debate on overlooked Holocaust assets is taking place; deeply alarmed by the continued activities of proponents of Holocaust denial and Holocaust relativism ..."

B. Racist violence, activities of far-right, neo-Nazi and skinhead organizations and other racist acts

38. The Oslo Anti-Racist Centre in Norway informed the Special Rapporteur of the following facts:

> "Police in Stavanger have charged five youths aged 16-20 with racist violence in the latest wave of attacks against immigrants. A fast-food bar run by a Kurd was vandalized Tuesday and two Africans were stabbed on Saturday. Stavanger police say they are giving high priority to such hate crimes, which they believe are linked to a neo-Nazi movement in western Norway. Nazi propaganda was found in the home of some of those charged in the stabbing case. Six men aged 19-26 are being held in prison in connection with the stabbing. One of the stabbing victims was from Algeria and another from Eritrea. The Kurdish kiosk owner is from Turkey, and has been the target of repeated vandalism and threats in recent months.
>
> Two boys were denied entry to Galleriet restaurant in Drammen by the doorman because 'they were of foreign origin' whilst their Norwegian friends were welcome to enter. Vikram Gupta (24) from India and Hoa Hien Lam (25) from Viet Nam have lived in Drammen all their lives but never experienced such a situation. When Lam and Gupta asked the doormen why they weren't allowed to come in, they said that the police told them so because some immigrant gangs fought inside Galleriet. One of the doormen

even said to Gupta that this Saturday is for 'Whites only'. Italian Giuseppe Salome and his brother were also denied entry to the restaurant for the same reason" (see the newsletter of the Oslo Anti-Racist Centre Samora, No. 2, 2000).

C. Discriminatory application of the death penalty

39. In a memorandum addressed on 14 November 2000 to President Clinton, Amnesty International denounced the discriminatory application of the death penalty and reported several cases in support of its appeal for the death sentence to be abolished in the United States of America. On 12 September 2000, a study by the United States Department of Justice revealed disturbing statistical evidence of widespread racial and geographical disparities in the application of the federal death penalty. As at the state level, there is strong evidence that it is not only the severity of the crime which determines whether a defendant lives or dies, but where he is prosecuted and, quite possibly, the colour of the defendant's skin. Several examples are given in the Amnesty Memorandum:

(a) In the Eastern District of Virginia, of the 21 cases in which the death penalty was recommended, 20 of the defendants were African Americans and one was Hispanic. Federal prosecutors recommended that the death penalty not be sought in all five cases submitted in which the defendant was white. Four of the 21 inmates currently under sentence of death were prosecuted in the Eastern District of Virginia. All four are black.

(b) In the Northern District of Texas, federal prosecutors submitted a total of 10 cases, recommending pursuit of the death penalty in six of them. The defendants in the 10 submitted cases included four whites, four blacks and two Hispanics. However, prosecutors recommended the death penalty for 25 per cent of the white defendants (one out of four), 75 per cent of the African American defendants (three out of four) and 100 per cent of the Hispanic defendants (two out of two).

Amnesty International's memorandum continues: "The role of racial bias in the administration of justice has been the subject of extensive and often controversial research in the USA. Numerous studies have found empirical evidence of disparate treatment of criminal defendants on the basis of race or ethnicity. Many social scientists have concluded that, when compared to white defendants, minority groups face a greater likelihood of imprisonment and serve longer sentences for identical offences. For example, a recent study of the juvenile justice system, sponsored by the United States Justice Department and six of the country's leading foundations, concluded: 'While "Equal Justice Under Law" is the foundation of our legal system, and is carved on the front of the United States Supreme Court, the juvenile justice system is anything but equal. Throughout the system, minority youth - especially African American youth - receive different and harsher treatment. This is true when white youth and minority youth are charged with similar offences.'" (Eileen Poe-Yamagata and Michael A. Jones, And Justice for some: Differential treatment of minority youth in judicial system, National Council of Crime and Delinquency, April 2000).

40. In 1998, the Presidential Advisory Board on Race recognized that discrepancies in incarceration rates could not be explained solely by the higher crime rates in minority communities: "These disparities are probably due in part to underlying disparities in criminal

behaviour. But evidence shows that these disparities also are due in fact to discrimination in the administration of justice and to politics and practices that have an unjustified disparate impact on minorities and people of colour" (Report by the Presidential Advisory Board on Race, One America in the 21st century - Forging a New Future, p. 77).

41. While controversy continues to surround many of the issues involving race and the criminal justice system, the findings in one area of study are virtually unanimous. Research into the death penalty over the past two decades has consistently shown a pattern of sentencing anomalies which cannot be explained without reference to racial factors. "The United States Government has stated that it is 'unalterably opposed' to the unfair application of the death penalty. Now is the time for it to prove it", declares Amnesty International. The Special Rapporteur supports Amnesty International's appeal and requests the Government of the United States of America to consider this matter urgently in the light of its commitments to human rights, and in particular to seek an equitable, more humane and just solution to the application of the death penalty.

D. Environmental racism

42. The NGO Citizens Organized for Environmental Justice has informed the Special Rapporteur that in Duval County, in Jacksonville (Florida), a community of 3,930 persons, 90 per cent of whom are African Americans, is threatened by the presence of a toxic waste dump close to their residential area. The spokespersons of the community allege that in 1928, with a view to segregating its inhabitants, Jacksonville deliberately moved the community to that place in the knowledge that it was situated close to a toxic waste dump. It was only in 1999 that the Duval County community noticed the presence of toxic substances in the area (including lead, aluminium, mercury, arsenic, DDT, PCB, dioxin and furan). These toxic substances were said to have polluted the waterways and groundwaters of the county. As the situation appears alarming, the Special Rapporteur has forwarded all available documentation to the United States Government, urging it to take whatever action is necessary.

E. Racial discrimination in combating drug use and trafficking

43. Several NGOs denounce and stigmatize racial discrimination in the fight against drugs in the United States. One report in particular caught the attention of the Special Rapporteur, the Human Rights Watch issue of June 2000, entitled "Punishment and Prejudice: Racial Disparities in the War on Drugs". Among the report's key findings, "Nationwide, blacks comprise 62 per cent of drug offenders admitted to state prison. In seven states, blacks constitute between 80 and 90 per cent of all people sent to prison on drug charges. Nationwide, black men are sent to state prison on drug charges at 13 times the rate of white men; two out of five blacks sent to prison are convicted of drug offences, compared to one in four whites; black men are incarcerated at 9.5 times the rate of white men. In 11 states, they are incarcerated at rates 12 to 26 times greater than that of white men. The 10 states with the greatest racial disparities are: Illinois, Wisconsin, Minnesota, Maine, Iowa, Maryland, Ohio, New Jersey, North Carolina and West Virginia. In these states, blacks are sent to prison on drugs charges at 27 to 57 times the rate of white men." "Most drug offenders are white. Five times as many whites use drugs as blacks", said Jamie Fellner, Human Rights Watch associate counsel and author of the reports.

"But blacks comprise the great majority of drug offenders sent to prison." The solution to this racial inequity is not to incarcerate more whites, but to reduce the use of prison for low-level drug offenders and to increase the availability of substance abuse treatment.

F. Situation of the Dalits

44. The Special Rapporteur has been informed that the Dalits in India, particularly women, continue to be the victims of violence and atrocities. As the allegations have persisted, the Special Rapporteur once again urges the Indian Government to take whatever measures it considers necessary as a matter of urgency and reiterates the wish to be invited to examine the situation of the Dalits in situ.

IV. REPLIES TO ALLEGATIONS TRANSMITTED TO GOVERNMENTS BY THE SPECIAL RAPPORTEUR

A. Austria

45. In his report to the fifty-fifth session of the General Assembly, the Special Rapporteur wrote that an international mission organized by the International Federation of Human Rights Leagues (FIDH) had visited Austria in March and May 2000 to study the situation of foreigners and, more particularly, asylum-seekers. Numerous reports were received of discriminatory and xenophobic practices against the black community (approximately 6,000 people out of a population of 8.8 million). Africans were singled out for public condemnation and were the target of police operations conducted under particularly humiliating conditions. For example, on 1 May 1999, a young Nigerian asylum-seeker, Marcus Omofuma, was arrested, gagged and choked to death by Austrian police while being flown from Vienna to Sofia. On 19 January 1999, Ahmed F. died in suspicious circumstances. On 19 May 1999, in the course of a massive raid some 100 people were arrested, allegedly for trying to obtain narcotic drugs - the old xenophobic trick of equating foreigners with drug dealers. And on 29 April 2000, police arrested Arize Ibekwe, a Nigerian asylum-seeker using the name Richard Weach. He died in prison on 3 May in circumstances which have yet to be explained (A/55/304, para. 32).

46. The Austrian Government supplied the following information concerning the alleged facts.

1. Information concerning Mr. Marcus Omofuma

47. "Following Mr. Omofuma's death during deportation, which was carried out subsequent to a negative decision on his application for refugee status, criminal procedures against the involved police officers were immediately initiated. In addition, the involved police officers were suspended from work. Disciplinary procedures were also initiated but suspended pending the outcome of the criminal procedures. The Court is currently examining two divergent medical expert opinions on the cause for Mr. Omofuma's death."

48. "Moreover, a new ministerial directive on the handling of deportations by air was issued, which specifies, inter alia, that only specially trained officers may accompany deportees, and strengthens the proceedings for the medical examination before the flight. Furthermore, a Human Rights Advisory Board with far-reaching competencies has been established at the

Ministry of the Interior including representatives from non-governmental organizations; the Board's commissions are, inter alia, entitled to inspect police offices with detention facilities without prior notice."

2. Information concerning Mr. Arize Ibekwe

49. "Mr. Ibekwe died in detention awaiting trial on 3 May 2000 after having been arrested on 29 April 2000 due to alleged drug trade. Currently, criminal investigations as well as an autopsy are being performed."

3. Information concerning Mr. Ahmed F.

50. "It is presumed that this case concerns Mr. Ahmed Fall, a Mauritanian national who died in Vienna on 19 January 1999 following his arrest based on alleged drug trade. The autopsy concluded that Mr. Fall died due to the swallowing of a parcel of narcotic drugs wrapped in plastic. In addition, the analysis stated that there was no specific basis for the assumption that Mr. Fall's death was related to the action of another person, especially by force or ill-treatment. Thus, the Court dismissed the legal procedures initiated against the police officers who arrested Mr. Fall."

51. "As a precautionary measure, the Ministries of the Interior and Justice issued information notes in several languages on the dangers of swallowing drugs wrapped in plastic."

4. Comment by the Special Rapporteur

52. The Special Rapporteur thanks the Austrian authorities for the above information and wishes to be kept informed of the follow-up to Mr. Arize Ibekwe's case.

B. Canada

53. The Special Rapporteur sent the Canadian Government an ordinary communication and an urgent action concerning the situation of the Ofume family living in Halifax, Nova Scotia.

1. Communication dated 31 May 2000

General practices of discrimination in Nova Scotia

54. It has been reported that Black, First Nation, Metis and Inuit persons in Halifax, Nova Scotia, suffer from various forms of systematic and institutional discrimination in the justice system, education, employment, housing, health care and social assistance:

(a) Justice System: Those who seek to file cases charging racism, segregation and discrimination have difficulty obtaining legal assistance from lawyers retained by the Nova Scotia Legal Aid Commission;

(b) Education: Blacks, First Nation, Metis and Inuits suffer from racism and discriminatory treatment in schools and universities;

(c) Employment: Very few Black, First Nation, Metis and Inuit law students are hired in private law firms throughout Nova Scotia. Furthermore, non-Whites, especially those who are involved with human rights advocacy for Blacks, First Nation, Metis and Inuits in Canada, have difficulty obtaining employment from white employers;

(d) Housing: Housing in Halifax, Nova Scotia, is heavily segregated and Blacks, First Nation, Metis and Inuits who attempt to live in "white" neighbourhoods are subjected to violent threats and other forms of discrimination;

(e) Health care: It is common for Blacks to receive unequal, below standard care and treatment in Halifax Hospital;

(f) Social assistance: Whites are given differential assessments and evaluations which allow them to receive greater governmental assistance than is provided to Blacks, First Nation, Metis and Inuits.

The case of Dr. and Mrs. Ofume

55. It has been reported that in Halifax, Nova Scotia, Maureen Ofume, along with several Blacks, Indians and Metis, was dismissed from St. Joseph's College of Early Chilwood Education. However, Mrs. Ofume was not informed of the reason for her dismissal by college authorities; she alleges that her dismissal was the result of her failure to cease campaigning for the rights and civil liberties of Blacks, First Nation, Metis and Inuit groups in Canada. Furthermore, Mrs. Ofume applied to receive an emergency trial in the Supreme Court of Nova Scotia, which would have allowed her to return to school before the semester was over if the Court agreed to rescind her dismissal. However, her application was not granted due to claimed procedural inadequacies. To represent her claim before the Supreme Court of Nova Scotia, Mrs. Ofume consulted approximately 99 per cent of the lawyers retained by the Nova Scotia Legal Aid Commission, yet none of these lawyers agreed to represent her in this matter. There appears to be reluctance on the part of lawyers in Nova Scotia to represent clients who wish to file claims of racism, discrimination and segregation. Therefore, Mrs. Ofume was forced to represent herself.

56. Also, Dr. Phillip Ofume claims that he is unable to find employment throughout Canada, despite his high level of education and experience. Dr. Ofume claims his unemployability is the result of his race and his involvement in advocacy for the human rights of Blacks, First Nations, Metis and Inuit groups in Canada. In addition to his unemployability, Dr. Ofume alleges that his family has suffered great financial hardship because they are denied sufficient social assistance by the Canadian Government. Thus, his family is forced to live on severely insufficient funds. Dr. Ofume claims that this is the common plight of all Blacks, First Nations, Metis and Inuits in Nova Scotia and that Whites on social assistance are given differential assessments and evaluations which allow them to receive government assistance. Finally, Dr. Ofume alleges that his family has received numerous death threats and other discriminatory treatment as a result of the fact that they live in a "white" neighbourhood and Blacks, First Nations, Metis and Inuits are usually forced to live in housing that is substandard to what is provided in white communities.

2. Urgent action dated 13 September 2000

57. The following is the full text of the request for urgent action:

"I am deeply concerned about continued racial harassment that Dr. and Mrs. Ofume are being subject to as a result of disclosing racial discrimination and campaigning for human rights and liberties of the Blacks, First Nations, Metis and Inuit in Nova Scotia.

"According to the source, the Federal Government of Canada and the Government of Nova Scotia instructed Dr. and Mrs. Ofume to stop defending or campaigning for the civil liberties of the Blacks, First Nations, Metis and Inuit in Canada, to disband their NGOs and to publish the names and addresses of all the members of the following NGOs:

- African Canadian Human Rights Association Inc.
- Anti-Refugee Slavery International Inc.
- International Campaign for Nigerian People's Liberation and Democracy Inc.
- Netlink International Communication System Inc.
- Oil and Chemical Watch International Association
- African Canadian Immigrant Settlement Association Inc.

"Allegedly when Dr. and Mrs. Ofume refused to heed these instructions, the Federal Government and the Government of Nova Scotia started using all sorts of measures to destroy these NGOs and the Ofume family in the following ways:

- issuance of a series of death threats against them to the extent of attempting to burn down their home and those of some of the members of the above-listed NGOs;
- network spying and destruction of their communications systems - e-mails, Internet, telephone, fax, etc.;
- restriction of their rights and access to education, employment, funding from donors outside Canada to support the operation of these NGOs and other services;
- high-handed sabotage which led to the failure by their NGOs to get any funding from donors inside and outside Canada;
- Denial of legal aid (all the legal aid agencies and lawyers have been warned by the Canadian Government not to provide legal aid for and represent Dr. Ofume).

"Without in any way implying any conclusions as to the allegations brought to my attention, I should like to appeal to Your Excellency's Government that the right to equality, the right to life, liberty and security, the right to work, the right to freedom of opinion and expression, the right to freedom of association of Dr. and Mr. Ofume are protected without any discrimination as to race, colour, or national or ethnic origin. These rights are protected inter alia by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, to which Canada is a party.

"I also draw your attention to article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination which requires States parties to ensure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination. I would further like to draw your attention to article 1 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms which stipulates that everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

"I would appreciate receiving any information that your Government could provide about the situation as well as measures taken to ensure that the right to equality, the right to life, liberty and security, the right to work, the right to freedom of opinion and expression, the right to freedom of association of Dr. and Mrs. Ofume are protected without any discrimination as to race, colour, national or ethnic origin".

3. Reply by the Canadian government dated 29 August 2000 to the first communication

58. Canada and its provinces have long been strong supporters of United Nations initiatives against racism and racial discrimination. Canada has long been a strong supporter of the Universal Declaration of Human Rights and has adopted the International Convention on the Elimination of All Forms of Racial Discrimination as well as the International Covenant on Civil and Political Rights, and the International Covenant on the Economic, Social and Cultural Rights and other international covenants of the United Nations. In this regard, Nova Scotia wishes to refer the Special Rapporteur to Canada's reports to the United Nations under these conventions, including Canada's Fourth Report on the International Covenant on Civil and Political Rights (ICCPR), Canada's Third Report on the International Covenant on Economic, Social and Cultural Rights (ESCR) and Canada's Eleventh and Twelfth Reports on the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The Special Rapporteur will find in these reports, in addition to the Government of Canada's contributions, reports from the Government of Nova Scotia on its compliance with the provisions of the various conventions and reports on its efforts to combat in particular racism, racial discrimination and related intolerance in Nova Scotia.

59. Nova Scotia recognizes that visible minorities and aboriginal peoples may face systematic barriers in the education system, employment and housing. There is a long federal and provincial history of initiatives to reduce these barriers in Canada. Canada at the federal level has a Charter of Rights which is applicable to all laws of Canada and at the provincial level, has legislation in the Human Rights Act which prohibits racial discrimination. Under the Human Rights Act, the Nova Scotia Human Rights Commission investigates and resolves complaints of individual and systematic discrimination and works to reduce, and it is hoped some day, to eradicate systematic discrimination through race relations and affirmative action initiatives, public education, public policy and public advocacy.

60. We believe that these comments will respond to the general allegations raised in the complaint of Dr. and Mrs. Ofume. It should be noted that Nova Scotia has no indigenous Métis or indigenous Inuit populations, which is suggested in the complaint respecting the general practice of discrimination in Nova Scotia.

61. With respect to the case of Dr. and Mrs. Ofume, we wish to advise and can confirm that both Dr. Phillip and Mrs. Maureen Ofume contacted the Nova Scotia Human Rights Commission. Nova Scotia's legislation with respect to protection of privacy of individuals prevents release of details with respect to their complaint. However, we have been advised by the Nova Scotia Human Rights Commission that in February 1999, the Commission staff met with Dr. Phillip Ofume after having been contacted by an official at the school of Dr. and Mrs. Ofume's children with a request that the Commission attempt to mediate disputes between Dr. Ofume and the school. Mediation sessions were scheduled but in the interim the situation changed so that the issues were no longer amenable to mediation.

62. In June 1999 Dr. Ofume contacted the Commission with concerns about his employment situation. His concerns were not jurisdictional in that they did not raise issues of discrimination. Dr. Ofume was referred to the Labour Standards section of the Department of Labour, which he subsequently contacted.

63. In October 1999 Maureen Ofume raised concerns of discrimination based on her race and/or colour and/or national or ethnic origin in her training/employment situation. After a preliminary investigation, the Commission concluded that these concerns were not sustainable as a discrimination complaint and notified Mrs. Ofume accordingly. At the request of Mrs. Ofume's trainer/employer, the Commission assisted in an attempt to resolve Mrs. Ofume's concerns through a mediation session held in December 1999. Unfortunately, it was not possible to reach a resolution between the parties.

64. In an attempt to assist Dr. and Mrs. Ofume, the Commission also contacted a leader of the African community in this area and asked him to reach out to them. We believe that contact was made.

65. The Commission has no information with respect to Dr. and Mrs. Ofume's other allegations concerning his unemployability, inequitable social assistance practices, and the difficulties that Dr. and Mrs. Ofume allege they have had in their neighbourhood.

66. With respect to complaints relating to lack of legal representation from Dr. and Mrs. Ofume, we can provide the following details received from the Nova Scotia Legal Aid and can report as follows.

67. Mrs. Ofume had filed an Originating Notice (Ex Parte Application) in the Supreme Court of Nova Scotia. The Originating Notice dated 26 January 2000, asked "for an Order to rescind the suspension of the applicant" who had been dismissed as a student by the St. Joseph's College of Early Childhood Education, the date of dismissal being 17 January 2000. Mrs. Ofume's Originating Notice also cited a "series of complaints of racism, segregation, life threatening, indecent name calling and discrimination in the classroom and College premises". In addition to the Originating Notice there was an extensive affidavit filed in support of the application which was sworn by Mrs. Ofume on 19 January 2000. Throughout these proceedings, Mrs. Ofume was represented by her husband, Dr. Phillip Ofume, a capable and articulate advocate who was able to secure a hearing before the Supreme Court and put forward Mrs. Ofume's grievances.

68. Based on the documentation that was filed in the proceeding, it appears that in addition to the Supreme Court of Nova Scotia, the plight of Mrs. Ofume was communicated to other agencies and tribunals within the Province, at the national level and at the international level, including the Nova Scotia Human Rights Commission, the Minister of Justice, the Honourable Premier of Nova Scotia, John Hamm, the African Canadian Human Rights Association, and Anti-Refugee Slavery International.

69. The proceedings in the Supreme Court of Nova Scotia, Trial Division were presided over by Chief Justice Joseph P. Kennedy. In the course of the court proceedings there was dialogue in "open court" between Dr. Ofume and the Chief Justice concerning the desirability of Mrs. Ofume being represented by legal counsel and the status of Mrs. Ofume's request for legal aid services. Dr. Ofume agreed to act on the court's suggestion that counsel be retained and he contacted the Nova Scotia Legal Aid Commission to make arrangements for legal aid services. The Legal Aid Commission was receptive to Dr. Ofume's request for assistance and met with both Dr. and Mrs. Ofume on 24 March 2000, at the offices of Nova Scotia Legal Aid in Halifax. Dr. and Mrs. Ofume met with Walter I. Yeadon, a Director of the Nova Scotia Legal Aid Commission.

70. On 28 March 2000, Dr. Ofume was given a letter which authorized the provision of legal aid services by way of a Legal Aid certificate. A legal aid certificate is a document issued by the Nova Scotia Legal Aid Commission to lawyers in private practice which confirms that the Commission will pay the fees of the lawyer in connection with providing legal services to a named individual. Dr. Ofume was also provided with a list of lawyers practising in the Halifax Regional Municipality that ordinarily represent clients on the basis of a Legal Aid certificate. Dr. Ofume was advised that the lawyers whose names appeared on the list were not obliged to provide representation with respect to any given proceeding. The decision of whether to take the case or accept the retainer was a matter solely within the discretion of the lawyer being consulted on the matter. In making that decision, the lawyer would be guided by, among other things, his or her assessment of the legal merit (viability of the legal issues being advanced) and whether the expectations of the client could be adequately or substantially fulfilled.

71. Dr. Ofume made diligent efforts to engage counsel on behalf of his wife, on the basis that the cost of counsel would be borne by the Nova Scotia Legal Aid Commission. Regrettably, Dr. Ofume was not able to find counsel prepared to assume conduct of the proceeding. The fact that Dr. Ofume was unable to engage the services of counsel might be based on the assessment of legal merit on the part of counsel contacted; may have its origin in the perception of counsel that Dr. Ofume might insist on directing the course of the litigation; or may arise, as stated by Dr. Ofume to the Special Rapporteur, in the "reluctance on the part of lawyers in Nova Scotia to represent clients who wish to file claims of racism, discrimination and segregation". For whatever reason, Dr. Ofume was not able to engage counsel despite being given a letter authorizing the provision of legal aid services by way of a Legal Aid certificate.

72. We trust that these reports from the Nova Scotia Human Rights Commission and Nova Scotia Legal Aid will provide sufficient information for the Special Rapporteur with respect to his investigations.

73. We wish to note that despite Dr. and Mrs. Ofume's allegations respecting systematic and institutional discrimination in the justice system, education, employment, housing, health care and social assistance, we have no specific information which supports Dr. and Mrs. Ofume's specific allegations with respect to differential treatment in these areas or through the social assistance programme. We are not aware of any other specific complaints. Although we have received considerable correspondence from Dr. and Mrs. Ofume respecting these matters, it is the Department's view these matters should be reviewed and investigated by an independent body, namely the Human Rights Commission, which has proceeded to do so and has responded accordingly.

4. Reply by the Canadian Government to urgent action request

74. The Governments of Canada and Nova Scotia replied to the allegation, stating that they received with grave and serious concern the matters raised in the letter from the Special Rapporteur.

75. The allegations that the Government of Nova Scotia is participating with the Government of Canada in a campaign to stop Dr. and Mrs. Ofume campaigning for civil liberties or to require that they disband certain non-governmental organizations (NGOs) in which they participate are denied by the Governments of Canada and Nova Scotia.

76. The Governments of Canada and Nova Scotia welcomed the efforts of organizations and persons who work to advance the eradication of all forms of racism, racial discrimination, xenophobia and related intolerance. In Canada, the Charter of Rights and Freedoms and the Canadian Human Rights Act prohibit discrimination by government or its agencies acting under the laws of Canada. In Nova Scotia, the Human Rights Act prohibits discrimination, inter alia on the basis of race, colour, creed, religion, ethnic, national or aboriginal origin. Both Canada and Nova Scotia have Human Rights Commissions charged with the responsibility of inquiring into allegations of discrimination in breach of those acts.

77. Under this human rights legislation and other statutes and laws of both Canada and Nova Scotia, as reported in Canada's various reports to the United Nations pursuant to its treaty

commitments, Canada ensures the rights to equality, life, liberty and security, the right to work, to freedom of expression and opinion, and of association to all individuals, without discrimination as to race, colour, national or ethnic origin.

78. Further, other than usual registration requirements for incorporated organizations, the Government of Canada and the Government of Nova Scotia deny that any directions were made to Dr. and Mrs. Ofume or related NGOs as alleged respecting publication of membership lists of such organizations. No orders have been made requiring disbanding organizations that comply with lawful registration requirements. Moreover, with respect to groups that do not wish incorporated status, there are no governmental requirements or interventions whatsoever in respect of such associations.

79. Additionally, the sources allege that the Government of Canada and the Government of Nova Scotia have used measures including death threats, arson, spying and destruction of communication systems against Dr. and Mrs. Ofume. The Government of Canada and the Government of Nova Scotia vigorously dispute, deny and repudiate these allegations which are completely unsubstantiated. Police agencies advise that these allegations have been fully and appropriately investigated by the police and that no evidence of criminal conduct has been found. No further investigation is warranted.

80. The source further alleges that the Government of Canada and the Government of Nova Scotia have denied Dr. and Mrs. Ofume their rights of access to education and employment and have denied them legal aid. This is a repeat of the allegations contained in an earlier letter from the Special Rapporteur to which Canada responded on 29 August 2000. [See paragraphs 58-73 above.]

81. The Governments of Canada and of Nova Scotia again wish to assure the Special Rapporteur of their commitment to ensure that the rights protected under the Universal Declaration of Human Rights and the covenants and conventions to which Canada is a party are hounoured and respected. If the Special Rapporteur wishes to visit Nova Scotia in regard to this matter, the Government of Nova Scotia would be pleased to meet and to cooperate with him.

5. Comment by the Special Rapporteur

82. The Special Rapporteur held a working meeting on 15 December 2000 with a representative of the Permanent Mission of Canada in Geneva, who confirmed her Government's replies as reproduced above. The Special Rapporteur considered, however, that in view of the urgent nature of those cases, and pending the outcome of judicial proceedings and mediation, some assistance should be offered on humanitarian grounds to the Ofume family, which is in difficult circumstances.

C. Colombia

1. Communication by the Special Rapporteur dated 6 October 2000

83. These are some extracts of the Special Rapporteur's communication:

"Allegations concerning language racism in the media and the neutrality of the Colombian authorities

1. In the press and in some magazines.

'The friends of the President' ... 'Any professional journalist - including the Black Perea - has a legitimate right to want his own space ...' (Contraescape column of the Daily El Tiempo, Enrique Santos Calderón, 13 March 1997).

'The final night of the contest' ... 'the Chocó candidate is hoping to be queen because she has got everything (lovely body and face, shame about the nose and hair) and because she is black' ... (El Tiempo, Monday, 11 November 1996).

'Band of degenerate Blacks' ... 'the Blacks, like all loud-mouthed Blacks, are leading gullible girls astray with their deafening music' ... (El Espacio, Tuesday, 8 October 1996).

'Hamilton Ricard the demolisher' ... 'Is he happy to be Chocoan and black? ... If he could be born again, would he choose to be the same?' (Diario Deportivo, 13 April 1997).

2. On radio

'O.K., the topic of the day is, would you kiss a Negro? ... they say people would rather kiss a homosexual than a Black ...' ('Temprano es más bacano' programme on the Olímpica Estéreo channel, 13 October 1998).

'Hasn't anybody told that lazy dumb Black Ricard that you don't mark from the front ...' ('Línea de ataque' programme on Radio Super, Iván Mejía Álvarez, 12 July 1999).

3. On television

'And being so small, ugly and black, you really think you are going to be elected councillor ...' (Harold Lozada, 7 o'clock news, 5 September 1997).

' ... Leider Preciado is a nice chap ... he is a nice little Black, you know what I mean? ... and nice people, who are also hard working and score goals, are always welcome anywhere ...' (Carlos Antonio Velez, 'La FM' programme, on RCN, 13 April 1998).

Despite the fact that the United Nations Special Rapporteur had recommended banning he comedy programme 'Sábados felices' (happy Saturdays), its then director - and presently congressman - Alfonso Lizarazo took the Special Rapporteur's report like a bad joke. His reaction was: '**That would be interfering with our culture ... we could not even laugh any more at our own misfortunes** ...', referring to the view expressed by Mr. Gléle Ahanhanzo to the effect that the programme's jokes made fun of the Blacks."

2. Reply by the Colombian Government

(a) Comments on the cases mentioned in the communication of 6 October 2000

84. It is only recently that citizens have started lodging complaints before judicial or administrative authorities for acts of discrimination. Complaints about racism lodged before the competent legal authorities are considered in conformity with current legislation. The following are some recent cases brought to the attention of the administrative and legal bodies responsible for considering them and following them up.

85. **Constitutional Court**. Decision No. T-422/96 of 10 September 1996. Reference: file T-95672. Author: Germán Sánchez Arregoces. Reporting magistrate: Eduardo Cifuentes Muñoz. Subject: Positive action in favour of the black community. The Constitutional Court has confirmed the right of the black community of the district of Santa Marta to be represented on the district's Educational Council, which is a joint body comprising representatives of several social sectors, including ethnic groups.

86. After rejecting the arguments put forward by the local authorities and the grounds given by the judges of first instance and appeal, who refused to admit that there were such things as black communities in that large town, the Constitutional Court ruled as follows:

> "After due consideration of the circumstances of the case, the protection proceedings - calling for a legislative measure to be adopted without delay introducing positive action in favour of a traditionally marginalized social group - are deemed admissible. On those grounds, the Court decides to confirm the right to equality of Germán Sánchez Arregoces, and that of the black community residing in the tourist, cultural and historic district of Santa Marta. The mayor of the tourist, cultural and historic district of Santa Marta and the director of the educational service of the district of Santa Marta must therefore appoint, in conformity with prescribed procedures, a representative of the district's black community within 45 days following notification of this decision."

87. **Administrative Court of Cundinamarca**. Enforcement proceedings. File No. 355 of 26 March 1998. Author: Alberto Antonio Angulo Quiñonez. Defendant: Ministry of Communications.

88. The plaintiff "... complains ... against the constantly discriminatory, racist attitude of the media towards the black community and says that despite the abolition of slavery (1851), Afro-Colombians are the victims of racial discrimination in the vocational, social, religious,

educational and cultural fields. The plaintiff argues that the media have not rid themselves of the racial prejudices which were common in the former slave-owning society, that they tend to repeat segregationist patterns that perpetuate the master-slave dialectic, that they abuse their dominant position in society and hence ignore codes of ethics and self-regulation and fail to fulfil their social function.

89. The plaintiff asserts that such behaviour constitutes a violation of the fundamental rights of Afro-Colombians; it is rooted in the collective subconscious of an intolerant society, which associates black people with ugliness, filth, ignorance, stupidity, evil, servility, witchcraft and the devil. Judging by the media's attitude to Blacks, these are supposed to engage only in hard manual work, sport, music or domestic tasks, which helps to propagate the idea of the so-called racial superiority of those who are not black ...

90. The plaintiff adds that Blacks tend to be invisible to the public eye, and he refers to a number of situations, such as advertising, opinion polls, surveys, comedy or sports broadcasts, contests and, in general, the world of journalism, where racist remarks are frequent.

91. Where television is concerned, the plaintiff refers in general to news broadcasts; he wants the public media to cease their discrimination against the black community, and points out that comedy programmes and advertisements provide amusement to Colombians at the expense of the dignity of Afro-Colombians.

92. He further states that sport and music are some of the few areas where Blacks can gain a foothold in Colombian democracy, that on television practically the only talent they are allowed to exhibit is culinary and that they are stigmatized in soap operas.

93. Lastly, the plaintiff maintains that the written press also joins in the psychological violence and he gives several examples of editorials and articles, headings, caricatures, cartoons, interviews and advertisements, taken from several of the country's newspapers ...".

94. After considering the arguments and the evidence put forward by the plaintiff and the defendant, the High Court of Cundinamarca decided to: "admit the enforcement proceedings initiated by Mr. Alberto Antonio Angulo Quiñonez ... The Court therefore ordered the Ministry to send out the circular mentioned in its letter No. 175192, dated 26 November 1997, to all the media within its jurisdiction, within not more than 10 days of the effective date of this decision ..." In that circular, the Ministry of Communications called on all broadcasting licencees to abide by rules forbidding programmes from infringing in any way the Constitution and laws of the Republic, or detracting from the life, honour and property of citizens.

95. Ministry of Communications. Decision No. 002223 of 10 August 1999. Plaintiff: Alberto Angulo Quiñonez. Programme criticized: "Temprano es más bacano" on the channel "Olimpica estéreo". In response to Mr. Angulo's complaint and after carrying out the necessary checks, the Ministry of Communications has noted that, in the programme referred to, "references are made to the black communities, in comedy sketches, using a mocking and deprecatory tone".

96. The broadcast which gave rise to the complaint and to the administrative proceedings undertaken by the Ministry of Communications was recorded by the Ministry. These are some extracts:

> "Title of the programme: 'Temprano es más bacano' (Early is better), date: 13 October 1998. OK, the topic of the day is: 'Would you kiss a Negro (laughter) ... Oh, you have to say a Black, of course, not a Negro; ... And their backside, they say their backside is like it is because they can't get off it to go and work ... People apparently would rather kiss a homosexual than a black man ... Hello, good morning, who am I speaking to? ... Hi Chavela, this is Julian. Good morning Julian, how are you doing? Tell me Julian, would you kiss a Black? I mean a black man, not a black woman? Well, you wouldn't kiss a black woman either? And why not? Well, I don't know, because they're black ...'"

On the basis of that recording, and after carrying out the necessary checks, the Ministry of Communications "sanctioned Organización Radial Olímpica S.A., licensee for the station Olímpica S.A., imposing a fine of 2,364,600 pesos, equivalent to 10 months of legal minimum wage ..."

97. Administrative Court of Cundinamarca. Enforcement proceedings. File AC-00-0258. Plaintiff: Alberto Antonio Angulo Quiñonez. Defendant: Office of the Ombudsman. In accordance with the decision referred to, the plaintiff, after describing the legal obligations of the Office of the Ombudsman and after pointing out that the official concerned had failed on several occasions to perform his duties, "(...) appealed for measures to be taken enforcing the performance of those duties, for legal proceedings to be initiated against media violating the fundamental rights of the black community, and for a press release to be disseminated in all the media condemning the racist and discriminatory comments made by some journalists with reference to the black community. The press release should also mention the ruling of the Administrative Court of Cundinamarca, in order to create awareness in Colombian society of the need to respect the dignity of members of the black community, who have been persecuted, marginalized and stigmatized throughout history ..."

98. As defendant, the Office of the Ombudsman reported to the Court on steps the Office had taken in response to the discriminatory acts referred to in the author's complaint and, in some cases, disseminated by the media; among such acts, it is worth mentioning in particular the incidents of a racist nature which occurred in Suba, a large neighbourhood of the capital, where racial tension was observed for several days between the half-caste population and black residents.

99. The Office also considered the complaints arising from the comments made by the journalist Iván Mejía Alvarez; according to the transcripts made by the Ministry of Communications, in a sports programme, the journalist commented on the performance of a well-known Colombian footballer, a member of Colombia's national team, in the following terms: "(...) Hasn't anybody told that lazy, dumb Black of a Ricard that you don't mark from the front ..."

100. After considering the arguments of the parties and on the basis of the evidence presented, the Court decided: "(...) to agree in part to the enforcement proceedings, and therefore to order the Ombudsman, within 10 days, to contact ... the Ministry of Communications, either directly or through an official delegated to that effect, to urge the Ministry to speed up its inquiries in order to complete them within the delays prescribed by law in response to the complaints lodged against the station Candela FM Estéreo and against the journalist Iván Mejía Alvarez, and to keep informed of the outcome of the inquiry ..."

101. Another incident recently aroused the indignation of representatives of the black communities; this was a study carried out as part of the study programme for the Master's Degree in sociology at del Valle University. According to the complaint lodged by Hector Enrique García, an electronic engineering student, against the principals of the establishment, in a study carried out by students for their Master's Degree in sociology aimed at determining factors of violence in certain neighbourhoods of the town of Cali, an option with racist connotations had been added in a list of replies as follows:

> "(...) Interviewer: Do you think that violence in the neigbourhood is due to the presence of certain types of people or groups, such as the following:
>
> Drug traffickers
> Prostitutes
> Transvestites
> Beggars
> Gangs
> Policemen
> Blacks"

According to the author of the complaint, the use of the option "Blacks" "... has the effect, imperceptibly and perniciously, of equating a physiological trait with a social phenomenon (violence); this attitude flouts all the historic and scientific evidence, which demonstrated in the last century that the physiological characteristics of human beings are completely unrelated to social behaviour (and is tantamount to ignoring sociology altogether as a science), bearing in mind that such attitudes have lead to the deaths of at least some 30 million human beings ...".

(b) Comments on legal, administrative, judicial or other measures adopted recently to combat racism, xenophobia and related intolerance

102. It should be pointed out that the 1991 Constitution brought about considerable changes in the lives of Colombians, while it altered the structure of the State and introduced a series of rules of considerable importance for combating racism in all its forms.

103. Among the basic legal principles underlying those changes, it is worth mentioning article 7, which recognizes the ethnic and cultural diversity of the nation, and article 13 of the Constitution, which is worded as follows:

"All individuals are born free and equal before the law, and are entitled to equal protection and treatment by the authorities, and to enjoy the same rights, freedoms and opportunities without discrimination based on gender, race, national or family origin, language, religion, political opinion or philosophy.

The State promotes the necessary conditions to make equality real and effective and adopts measures in favour of groups which are discriminated against or marginalized.

The State especially protects those individuals who, on account of their economic, physical or mental condition, are in clearly vulnerable circumstances and sanctions any abuse or ill-treatment perpetrated against them."

104. These principles have been embodied in laws and decrees, and in extensive case law. One item of legislation worth mentioning is Act No. 70 of 1993, entitled "Act on the ethnic rights of black communities", which, in article 33, provides that:

"The State shall suppress or avoid any act of intimidation, segregation, discrimination or racism against black communities, within the social sectors of the public administration at the highest level, and especially in the media and the school system; it shall ensure observance of the principle of equality and respect for the ethnic and cultural identity of the nation.

To that end, the competent authorities shall apply sanctions as necessary, in accordance with the National Police Code, in conformity with the provisions concerning the media and the school system and any other relevant provisions."

3. Comments by the Special Rapporteur

105. The Special Rapporteur welcomes the measures which have been taken and hopes that they will be effectively applied. He will maintain contact with the Colombian Government and persons concerned.

D. Israel

106. In his report to the Commission on Human Rights in 1997, the Special Rapporteur cited discriminatory treatment of Ethiopian Jews who donated their blood for use in transfusions (see E/CN.4/1997/71, paras. 120-122). A summary of the Israeli Government's initial reply was provided by the Special Rapporteur in his report to the fifty-first session of the General Assembly (A/51/301, paras. 34-35). Additional material is reproduced below.

1. Additional reply from the Government of Israel

107. The Navon Commission investigating blood donations by Ethiopian Immigrants issued its report yesterday (Sunday), 28 July 1996. Former Prime Minister Shimon Peres established the Commission after an article appeared in the Ma'ariv newspaper on 24 January 1996, entitled "The Lie of Ethiopian Blood", and following the violent demonstrations which occurred in the wake of the article, when it was determined that blood donated by members of the Ethiopian community was not being used and that that fact was being withheld from the donors.

108. The Commission was authorized to investigate various aspects of this matter, including its social and public implications. Former president Yitzhak Navon headed the Commission and its members included the former president of the Tel Aviv District Court, Justice Dr. Eliyahu Winograd; two members of the Ethiopian community, social worker Ms. Natmar Haallal and spokesperson of the umbrella organization for Ethiopian immigrants, Mr. Adissu Messele (who was later dismissed from the Commission by order of the High Court of Justice); two doctors, epidemiologist Professor Lechayim Nagan (who is also Vice-President of Ben-Gurion University) and haematologist, Professor Eliezer Rahmilevich, Director of the Haematology Department at Hadassah Hospital, Jerusalem; and former member of the Knesset and head of the Sephardic Community Committee in Jerusalem, Mr. Yechezkiel Zakai. Mr. Nadav Anar served as secretary to the Commission and Rina Hod and Israel Cohen served as media advisors and spokespersons.

109. The Commission found many flaws in the decision-making processes of the Ministry of Health and the Blood Bank, but did not recommend that any personal conclusions be drawn in this matter, despite differences of opinion between members of the Commission on this issue. According to official figures given to the Commission, there are 1,400 known AIDS carriers in Israel, 850 of whom are from the general population and 550 are Ethiopian immigrants. The Commission recommended new directives that will from now on facilitate acceptance of blood donations by Ethiopian donors on a case-by-case basis. The Commission called upon the Government to work to ensure that Ethiopian immigrants gain full recognition as Jews.

110. The Commission recommended setting up an inter-ministerial information team under the auspices of the Ministry of Health to prepare a comprehensive, multi-disciplined programme for the members of the Ethiopian community, in addition to the allocation of the requisite budget and manpower to establish this programme. The Commission further recommended that the country's educational, cultural and informational networks conduct broad-based programmes for the general public regarding the customs and culture of the Ethiopian community so as to prevent its being stigmatized as a risk group.

111. In light of the flaws in the decision-making process, the Commission recommended establishment of an advisory committee to the Health Minister on issues of particular relevance and concern to the Ethiopian community, and which have extra-medical implications. The Commission also believes that it is vital that the decisions of the Ministerial Committee on Absorption which were made after this episode came to light regarding the improvement of the absorption of Ethiopian Jews, be fully and quickly implemented, and that appropriate budgetary resources be allocated to this end.

112. The Commission hopes that adopting these steps and accepting these recommendations will calm feelings in the community, and foster peace and understanding among us. It is unnecessary to emphasize that the full absorption of Ethiopian immigrants is a fundamental mission of the State of Israel and is one of its supreme tests.

2. Special Rapporteur's comment

113. The Special Rapporteur would like to see continued efforts to integrate Ethiopian immigrants with a view to ensuring that they become full citizens.

V. FOLLOW-UP TO FIELD VISITS: LEGISLATIVE, JUDICIAL OR OTHER MEASURES TAKEN OR ENVISAGED BY GOVERNMENTS

A. South Africa

114. South Africa held a National Conference on Racism in August 2000. The report of the Conference has been transmitted to the Special Rapporteur. The objectives of the Conference were: "to provide a platform for South Africans to share their experiences about racism; to engage one another in dialogue about race relations in modern democratic South Africa and assess the extent to which the vision or our Constitution is lived and experienced by South Africans and share common perspectives about how to build a non-racial, united and reconciled society; to analyse the nature, dynamics and manifestations of racism in a democratic society and to examine the reasons for the persistence of all forms of racism; to make commitments about building a new, reconciled and united society in South Africa at all levels; and to prepare for the third United Nations World Conference against Racism, Xenophobia and Related Intolerance scheduled to take place in South Africa in August/September 2001". The Conference, which was attended by 750 delegates, was intended to deal with the history and consequences of racism in South Africa and to discuss ways the country could move beyond it. South Africa remains full of examples of prejudices, from white attacks on blacks and massive economic disparities between racial groups to black xenophobia attacks on immigrants from other African countries.

115. The Conference concluded inter alia that the elimination of racial discrimination in South African society would help to eradicate poverty; it called on the Government to adopt measures of positive discrimination (affirmative action) to eliminate the consequences of apartheid. The Conference further recommended that the Government should take measures to curb xenophobia, particularly in the field of immigration and crime prevention.

B. Germany

116. The following information supplements the details provided in the report to the fifty-fifth session of the General Assembly (A/55/304, paras. 28-31). Germany is stepping up its efforts to combat neo-Nazism. Thus, on 30 August 2000, a court in Halle dealt severely with extreme right-wing and neo-Nazi elements by imposing heavy exemplary sentences for beating to death Alfredo Adriano, a Mozambican. A 24-year-old unemployed baker was sentenced to life imprisonment, and his two 16-year-old accomplices to nine years in prison. This judgement contrasts markedly with certain decisions in the past in which racist crimes have been classified as intentional wounding with a fatal outcome but without intent to cause death, as in the case of the murder of an Angolan in September 1992 at Frankfurt an der Oder on the Polish border, for which the culprits were given sentences ranging from two years' (suspended) to four years' imprisonment. Germany is therefore taking steps to curb the resurgence of xenophobic violence in certain regions of the country. At the same time, the Government has asked the Constitutional Court to ban an extreme right-wing party, the NPD.

C. Colombia

117. In his report to the Commission on Human Rights following his visit to Colombia from 28 June to 15 July 1996, the Special Rapporteur made the following recommendations to the Colombian Government (E/CN.4/1997/71/Add.1, para. 68):

(i) An act on racism and racial discrimination should be adopted;

(ii) The programme Sábadps Felices should be banned;

(iii) The process of distributing land to the Afro-Colombian and indigenous populations should be speeded up;

(iv) The administrative problems connected with subsidies to the resguardos should be resolved;

(v) Awareness of human rights should be developed in the army and the police, whose personnel should receive appropriate training;

(vi) The Afro-Colombian and indigenous populations should participate more fully in the taking of decisions of concern to them;

(vii) More respect should be shown for the economic, social and cultural rights of the populations concerned when development plans are drawn up and implemented, especially in the Pacific region;

(viii) The populations should be protected from violence in the areas of conflict.

118. The Colombian Government has sent the Special Rapporteur the following information concerning progress and obstacles encountered in the implementation of these recommendations.

1. Adoption of an act on racism and racial discrimination

119. Racism has not yet been criminalized in accordance with the provisions of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. However, the adoption of Act No. 599 (2000), pursuant to which the new Criminal Code will enter into force on 31 July 2001, represents a significant advance in this field. This Act enshrines a number of elements which should help to prevent and suppress the patterns of behaviour cited in the Convention, and represents an advance in other fields not dealt with under this instrument.

120. Thus, article 58 (Aggravated punishable conduct), paragraph 3, of chapter II (Criteria and rules for determining the punishable nature of an offence) refers to: "punishable conduct deriving from intolerance and discrimination associated with race, ethnicity, religion or belief, sex or sexual orientation, or any disease or infirmity of the victim".

121. Furthermore, article 143 (Acts of racial discrimination) of the special section of Book II (Specific offences), Part II (only chapter: Offences against persons and property protected by international humanitarian law), states that: "When in the course of an armed conflict a combatant commits acts of racial segregation or inflicts inhuman or degrading punishment based on other unfavourable distinctions demeaning to a protected individual, he shall be liable to 5 to 10 years' imprisonment and shall be banned from holding public office for a term of 5 to 10 years."

2. Banning of the programme "Sábados felices"

122. The Special Rapporteur's request is prompted by the concerns of certain members of the black community which were made known to him during his visit to Colombia. These relate to the presumed lack of control which producers exercise over the programme, it being alleged that they take no action to prevent the dissemination of racist ideas.

123. Colombia is continuing to adopt new legislation to ensure that the culture and identity of all ethnic groups which make up the Colombian nation are treated equally.

124. In addition, the Directorate of Black Communities and Ethnic and Cultural Minorities reporting to the Ministry of the Interior has followed through the implementation of the rules provided for under article 33 of Act No. 70 (1993), cited previously. The measures envisaged under this Act should promote efforts to combat the dissemination of racial prejudices effectively in the media, including privately-owned media outlets that broadcast programmes such as "Sábados felices".

3. Accelerating the process of distribution of land to the Afro-Colombian population

125. Regarding the issuance of collective title deeds for lands traditionally occupied by the black communities or the Afro-Colombian population, it should be noted that although the initial objectives have still to be met, the results to date show that the process is well under way. Joint action by the Government and representatives of the black communities have resulted in the issuance of 38 collective title deeds relating to a total area of 1,662,158 million hectares or 36 per cent of the land subject to title deeds, estimated at 4.6 million hectares.

126. In accordance with the operational plan of the Colombian Agrarian Reform Institute (INCORA) for the year 2000, 77 requests for collective title deeds have been filed to date. These relate to a total area of nearly 3 million hectares and affect over 60,000 families belonging to black communities in the Pacific region.

127. As far as indigenous communities are concerned, as of 25 November 1999 the State had created 509 resguardos for 64,378 families or 344,659 people, in addition to an indigenous reservation. The resguardos made over to these families cover more than 30 million hectares.

4. Dealing with the administrative problems connected with subsidies to the resguardos

128. The conflicts provoked by the use of resources which the State is transferring to indigenous communities - resources which form part of national recurrent income - are a concern for the Government and the communities alike. These problems stem from the novelty of the arrangements, both for the indigenous communities themselves and for the territorial bodies on which they are represented. Nevertheless, these difficulties should be resolved following the adoption of rules on indigenous territorial bodies, a task that is being addressed not only by the competent institutions but also by the representatives of these communities in the Congress of the Republic. The round tables and seminars which have been organized have helped to improve the suitability and implementation of the norms governing this question.

5. Development of awareness of human rights in the army and the police, with appropriate training

129. In the interests of autonomy, and in order to combine the political will to secure peace and the decision to safeguard and protect fundamental human rights, on 19 August 1999 the Government presented to the national and international community its "Policy for the promotion, observance and safeguarding of human rights and the application of international humanitarian law, 1998-2002". This policy includes measures to intensify programmes designed to publicize human rights and international humanitarian law among law-enforcement personnel.

130. In army and police training establishments, training and information courses on human rights and the rules of international humanitarian law are provided for relevant personnel in order to acquaint them with basic principles in this area.

131. In addition, the Human Rights Office of the Vice-President of the Republic is organizing a long-term project to encourage law-enforcement officers to respect human rights and international humanitarian principles. The programme, launched in 1997, is the outcome of an agreement between the United Nations Development Programme (UNDP), the President's Office, the armed forces and the police. It aims to introduce a new teaching methodology, which goes beyond mere familiarization with human rights and international humanitarian principles and encourages the assimilation of these principles by law-enforcement personnel and their embodiment in specific conduct, in such a way as to inculcate an ingrained attitude in the personnel concerned and bring about an institutional transformation.

132. The teaching methodology is an ongoing process of interaction between school and institutional life, which aims to strengthen the internal human rights framework in the armed forces and the police and to place on a systematic footing the relationship between internal and external control bodies and institutions. Human rights and international humanitarian law are not just an optional extra; they are an integral part of all educational programmes. The teaching of human rights principles is pluridisciplinary, meaning that they are studied against the background of the specific actions of each force and in the context of the objectives of each level of instruction.

133. The project has evolved from the elaboration phase to that of implementation of the methodology. A corpus of cases and higher court judgements has been assembled to illustrate topics at the various levels of instruction and to establish points of contact between operational and military matters on the one hand, and human rights problems on the other. In addition, a team of specialized instructors is currently being strengthened in each army and police unit to ensure that the process is followed up and reproduced.

6. Fuller participation by the Afro-Colombian and indigenous populations in taking decisions which affect them

134. The participation of the Afro-Colombian population in Government decision-making bodies is a key proposal in ensuring that this ethnic group enjoys equality of opportunity. Although much remains to be done, the positive action that has been taken since the adoption of Act No. 70 (1993) on the rights of black communities is promoting consideration of this issue and enabling solutions to be mapped out.

135. In the same vein, indigenous communities have made wide use of the participative mechanisms envisaged under the 1991 Constitution, particularly those facilitating access to the courts and enabling the latter to settle disputes. Despite the significant progress that has been made, the Colombian Government believes that the process of ensuring full participation by ethnic minorities in the taking of decisions which concern them is still incomplete.

7. Greater respect for the economic, social and cultural rights of the populations concerned when development plans are drawn up and implemented, especially in the Pacific region

136. Article 57 of Act No. 70 (1993) stipulates that the Colombian Government should draw up a development plan for the black communities which will serve as a frame of reference for the policies of the National Development Plan. These policies must respect the ethnic diversity of the nation and promote the sustainable development of the Afro-Colombian population in harmony with its own ideas about development.

137. Accordingly, Decree No. 955 concerning the national investment plan for 1998-2002, which forms part of the National Development Plan entitled "Change for Building Peace", stipulates that action by the authorities to help these communities should focus on the following subprogrammes: basic sanitation; health; education; productive activities and institutional development; and granting of land titles and land acquisition.

8. Protection of populations from violence in the areas of conflict

138. In order to deal with complaints concerning acts of violence and the existence of illegal armed formations which endanger the life of members of indigenous communities in the resguardos (indigenous reservations), the Colombian Government, through the Commission for the Human Rights of Indigenous Peoples and its subcommissions, has endeavoured to coordinate its action with security, supervisory and executive bodies in order to put a stop to such acts.

139. The Office of the Vice-President of the Republic maintains contacts with national and regional indigenous organizations in order to deal with human rights issues.

140. The Directorate of Indigenous Affairs reporting to the Ministry of the Interior has endeavoured to settle individual cases of human rights violations within the framework of the Human Rights Commission, in cooperation with supervisory bodies, ministerial human rights directorates and the President's Office. According to information provided by these bodies, several cases of threatened bodily harm or death threats made against members of indigenous communities have been investigated.

141. In addition, several indigenous leaders who have experienced threats have benefited from the Ministry of the Interior's protection programme, as provided for under article 81 of Act No. 418 (1997).

142. With regard to the black communities, despite the lack of disaggregated statistics, which would facilitate the adoption of measures that take account of their cultural identity and provide a targeted response to the cycle of violence which, owing to geopolitical factors and the military strategy employed by illegal armed groups, is taking the heaviest toll on this ethnic group, the individuals and communities concerned are able to benefit from Government-initiated policies to protect and promote human rights. At the same time, special strategies have been drawn up to deal with the Afro-Colombian population which has been subjected to internal displacement.

D. Hungary

143. Following his visit to Hungary from 27 to 30 September 1999, the Special Rapporteur made the following recommendations to the Hungarian Government (E/CN.4/2000/16/Add.1, paras. 148-151):

> "The Hungarian courts should come down harder on racist crimes or acts committed by individuals or State officials.
>
> The Hungarian Government should pass a law along the lines of the Model National Legislation for the Guidance of Governments in the Enactment of Further Legislation against Racial Discrimination, prepared by the United Nations, in order to combat racist acts in all areas of economic and social life.
>
> The Hungarian Ministry of Education should take steps to end the segregation of Gypsy schoolchildren by developing teaching methods that promote equal opportunities for these children and equitable access to education for all.
>
> The Hungarian Government should take action in local communities in rural areas in order to promote a better integration of Gypsy communities and put a stop to their expulsion."

144. The Hungarian Government continues to adopt an open-minded approach to questions concerning the Gypsies. Thus, on 14 December 2000, the Special Rapporteur held a working meeting with the Hungarian Ambassador to the United Nations Office at Geneva to discuss the

follow-up to his visit to Budapest in 1999. The Ambassador welcomed the report on the visit and indicated that measures were being taken to facilitate the gradual integration of the Roma into Hungarian society. Particular attention was being paid to the question of special schools for the Roma. These measures were outlined in an official publication ("Measures taken by the State to promote the social integration of Roma living in Hungary"), which had been forwarded to the Special Rapporteur. The Ambassador hoped that the Special Rapporteur would make a second visit to Hungary to appreciate the Government's efforts to combat discrimination against Gypsies in the fields of education, employment, health and economic and social instruction.

145. A complex medium-term programme will be implemented in stages. An initial tranche of 7.2 billion forint has been earmarked for this purpose in the State budget for the year 2000; this money will be used to improve the situation of Gypsies in the following fields: (i) teaching and education; (ii) award of scholarships; (iii) retraining for the long-term unemployed; (iv) agriculture; and (v) support for National Roma Self-Government and local self-government for the community.

146. Besides the medium-term programme, and with the assistance of an expert from the Council of Europe, the Hungarian Government is formulating a long-term strategy aimed at the social integration of the Gypsy population. Distinguished members of the National Roma Self-Government and other Roma organizations are involved in the elaboration of this strategy. The long-term Roma strategy will be submitted in draft form to the Government as early as September 2000, and then to the National Assembly, which will be called upon to adopt a resolution on key guidelines for the coming decades to address the difficult problem of the Gypsies.

147. The Special Rapporteur's attention has been drawn to the case of certain Gypsies who were driven out of the town of Zamoly and subsequently sought asylum in Strasbourg in France. The Hungarian Government has provided information outlining the chronology of events and citing the efforts that have been made to ensure that the families concerned are rehoused in Zamoly. A statement of the Hungarian Government's position may be consulted in the files of the Office of the High Commissioner for Human Rights.

148. In addition, the Hungarian Government has stated that:

> "Evaluating the regrettable saga of the "Zámoly affair", which has now already been running for three years, we have to express our sympathy to the relatives of the fatal victim of the conflict, the 21-year-old young man from Csakvar, Ferenc Csete.
>
> It is our conviction that the governmental agencies and the National Roma Self Government have, in recent years, made significant and effective efforts to sort out the problems of the Roma families of Zámoly.
>
> One of these efforts has been the construction - exclusively from state budget funds - of apartments for the Roma families, apartments of considerably better quality than their earlier homes. During the actual construction itself, the Roma of Zámoly -

according to the information of the National Roma Self-Government - did not take part even in the basic unskilled building work, despite their contractual obligation that they agreed to.

Every citizen of the Republic of Hungary can freely choose his/her place of residence whether at home or abroad.

The Roma of Zámoly are free to return home and move back into their new homes any time they like.

From the funds of the Public Foundation for the Roma of Hungary, they still have the possibility to take part in an agricultural and husbandry programme, with a grant of up to HUF 1.5 million per family and professional advice, which could provide them with work and social security, doing away with the need for benefits.

The Central Police Station of Fejér County will make every effort to ensure their personal safety and prevent any abuse, by appointing a local police officer and by increasing the police presence on the ground, and also by liaising directly with the relevant senior officers of the Central Police Station.

As for a longer-term approach to relieve the local ethnic conflict, there is a dialogue programme funded from public money, which could help bring the majority and minority residents of the settlement closer to each other.

It is in the interest of Hungary to make sure that domestic criminal proceedings for criminal offences which have exacerbated the conflict as well as international legal proceedings are brought to an early conclusion, thereby allowing public opinion both in Hungary and abroad to gain a clearer understanding of the matter by concentrating on the facts."

149. In addition to the positive measures that have already been taken, the Government should ensure that the judicial system deals more effectively with any complaints of racial discrimination that are referred to it. This is one of the deficiencies of the Hungarian judicial system, as noted in the European Union's report of 8 November 2000 on Hungary's accession to that organization and a communication from the European Roma Rights Centre. The adoption of a general law to curb racial discrimination in all areas should promote enhanced administration of justice. At the same time, reforms should be speeded up to eliminate the segregation between Gypsy and non-Gypsy children in schools.

E. Czech Republic

150. Pursuant to the recommendations made by the Special Rapporteur following his visit to the Czech Republic (E/CN.4/2000/16/Add.1, paras. 141-144), one NGO, "The Counselling Centre for Citizenship/Civil and Human Rights" (CCC/CHR), notes that the Czech Government has not yet adopted a law to curb racial discrimination in all areas of life. The piecemeal legislation currently in force fails to offer adequate protection against racial discrimination and the victims of racist acts are unable to secure proper redress. Victims have access to inefficient

administrative remedies only. Discrimination against the Roma persists in the areas of housing, employment and justice; the Roma are excluded from restaurants, swimming pools, discotheques and other public places. The system of special schools is still in place and no improvements have been made.

F. Romania

151. The extreme right in Romania is resurgent and is asserting itself, as indicated by the results of the Presidential elections of November-December 2000. The nationalist party "Romania Max" (the Greater Romanian Party (PRM)), whose candidate Cornelia Vadim Tudor garnered 33.17 per cent of the vote, has become the second most powerful political force in the country; while Ion Iliescu, who led the country from 1990 to 1996, obtained 66.83 per cent of the vote. The PRM, which advocates an ultranationalist policy, is opposed to the existence of minorities - especially the Roma - in Romania. It also holds 28 per cent of the seats in Parliament.

G. United Kingdom

152. The Special Rapporteur is awaiting information from the Government of the United Kingdom on follow-up to the recommendations which he made following his visit in November 1995 (E/CN.4/1996/72/Add.4, para. 96). In the meantime, he wishes to draw the Commission's attention to a document compiled by several United Kingdom NGOs under the title "Joint NGO submission to the United Nations Committee on the Elimination of All Forms of Racial Discrimination (CERD)", which was published to coincide with the Committee's consideration of the fifteenth periodic report of the United Kingdom (CERD/C/338/Add.12, Part I). This document contains useful information on racist attacks and racial harassment, discrimination in the fields of education and employment, and the shortcomings of the judicial system in terms of curbing racial discrimination. It is available for consultation in the files of the Office of the High Commissioner for Human Rights.

H. Switzerland

153. The Swiss judiciary has made efforts to combat racism and anti-Semitism. Thus, on 10 April 2000, a court in the canton of Vaud, on the basis of article 261 bis of the Criminal Code concerning the public peace and racial discrimination, found Gaston-Armand Amaudruz guilty of racial discrimination and sentenced him to one year's non-suspended imprisonment with publication of the judgement in three major newspapers in French-speaking Switzerland. It also ordered him to pay 57,000 Swiss francs in court costs and an indemnity to four claimants for criminal indemnification, namely the Fédération Suisse des communautés israélites, the International League Against Racism and Anti-Semitism (LICRA), the Association of Sons and Daughters of Jews Deported from France, and Sigmund Toman, a concentration-camp survivor. In addition, the Lausanne Criminal Court ordered the seizure and destruction of a number of books, articles and documents belonging to this Holocaust denier. Since 1995, there have been more than 200 trials and approximately 100 convictions (see, for example, Andreas Rieder, "Pratique des tribunaux relative à l'article 261 bis du Code Pénal", March 1999).

154. In addition, the Basel resident Jürger Graf, author of the book Der Holocaust im Klassenzimmer (Zurich, Schulthess Polygraphischer Verlag), was sentenced last September to 15 months' non-suspended imprisonment for racial discrimination and his revisionist views; he had already been convicted in 1998 for repeated violations of article 246 bis of the Criminal Code.

VI. ACTION BY CIVIL SOCIETY

A. France

155. The Special Rapporteur noted in his report to the General Assembly the initiative taken by the French organization SOS-Racisme to combat structural everyday racism (A/55/304, para. 41). This organization identified nightclubs in a number of French cities which it suspected of practicing racial discrimination. By a judgement of 12 September 2000, the French Court of Cassation acknowledged the lawfulness of "testing" to facilitate the prosecution in the courts of persons guilty of racial discrimination. On Saturday 9 December, SOS-Racisme organized a second "test night" in Paris and 20 other large cities. According to a report in Le Monde of 12 December 2000, the association uncovered 31 cases of "blatant racial discrimination" at 78 of the nightclubs tested. This ethnic screening is common practice in Clermont-Ferrand, Saint-Etienne, Grenoble and Marseille, although there has apparently been a marked decline in cases of discrimination in Paris. SOS-Racisme notes with satisfaction in a press release that "the campaign against discrimination which began in 1999 is now bearing fruit". Action in other areas such as housing and employment is also planned.

B. Germany

156. The German Football Federation launched a campaign against violence and the extreme right wing on the weekend of 16-17 December. Players, referees, managers and supporters displayed a red card with the slogan "No room for violence" at the start of each first and second division fixture. This campaign comes in the wake of a series of racist and anti-Semitic acts in Germany.

VII. CONCLUSIONS AND RECOMMENDATIONS

157. The preceding chapters show that significant progress has been made in raising awareness of the deleterious effects of racism, racial discrimination and xenophobia throughout the world. The energetic efforts made by NGOs in this field have been remarkable. Many Governments have adopted systematic measures, but these are not always implemented. It is unfortunate that several Governments failed even to reply to the Special Rapporteur's communications and have omitted to provide him with details of action they are taking to combat racism. It is disturbing to note that racism occurs in everyday life and increasingly takes the form of xenophobia through a rejection of others and tendencies towards communalism, ethnocentrism, interethnic conflict and a disturbing resurgence of extreme right-wing and neo-Nazi movements.

158. The debate on racism at the fifty-fifth session of the General Assembly demonstrated that the majority of States and NGOs are preparing for the World Conference against Racism, Racial

Discrimination, Xenophobia and Related Intolerance, due to be held in Durban (South Africa) in September 2001. The Special Rapporteur welcomes the holding of meetings of experts and regional conferences to prepare for the Conference and calls for greater mobilization and involvement of international public opinion and fuller media coverage. In the context of the World Conference, the Special Rapporteur wishes to repeat the recommendations which he made to the General Assembly, namely that States which have not yet ratified the International Convention on the Elimination of All Forms of Racial Discrimination should do so prior to the Conference and set up national institutions for the promotion and protection of human rights, with particular emphasis on combating racism, racial discrimination, xenophobia and anti-Semitism; and that States which already have national human rights institutions or commissions should be asked to include in their programmes, if they have not already done so, the goal of combating racism, racial discrimination, xenophobia and related intolerance. Finally, the Special Rapporteur urges States to provide summaries of their legislation to combat racism, and NGOs to provide the High Commissioner for Human Rights with any relevant information or a summary of racist problems and practical measures for combating them effectively.

159. In recent years, the reform of the United Nations system for the protection of human rights seems to have resulted in a gradual downgrading of efforts to combat racism and racial discrimination. Thus, the Sub-Commission on Prevention of Discrimination and Protection of Minorities which used to play a key role in this area, has now become the Sub-Commission on the Promotion and Protection of Human Rights, which has a wider remit. Within the Office of the High Commissioner for Human Rights, the department which used to handle legislation and prevention of racial discrimination (under the former Centre for Human Rights) no longer exists. The Commission on Human Rights should look into the possibility of establishing a major programme or service within the Office of the High Commissioner, which would be entirely devoted to combating racism, racial discrimination and related intolerance. This would spawn real measures that go beyond rhetoric in order to grapple with the worldwide scourge of all forms of racism, racial discrimination, xenophobia and related intolerance.

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 2000/14

Corrigendum

Paragraph 4, sixth line

The line should read as follows:

that FPO is a creation of former members of the Austrian National Socialist Party, which

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Comments submitted by the International Labour Office (ILO)

General update on ILO activities to promote non-discrimination

1. The International Labour Office has continued its work for the elimination of discrimination in employment and occupation on a number of grounds, including those of race, colour, national extraction and social origin. This is based on the ILO Constitution as well as on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and other ILO standards and instruments, including the ILO Declaration of Fundamental Rights and Principles at Work and its Follow-up. The latter explicitly mentions "the elimination of discrimination in respect of employment and occupation", which covers grounds including race, as one of the fundamental principles and rights at work. The present comments provide a brief update to information presented to previous sessions of the Commission on Human Rights, while drawing special attention to the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the second part.

2. Being considered one of the eight fundamental conventions of the International Labour Organization, Convention No. 111 has been among the targets of the ratification campaign instituted by the Director-General in 1995 and a number of new ratifications have been received pursuant to that campaign. As of February 2001, 146 States have ratified the Convention. Due to the growing number of ratifications, the related supervisory activities of the Office are on the increase as well. The ILO Committee of Experts on the Application of Conventions and Recommendations in 2000 examined a number of reports on Convention No. 111 from ratifying

countries, and the observations it has made are contained in its annual report published in March 2001. In its observations, this Committee has drawn attention to the lack of protection, denial of rights and suffering of members of minority groups, migrant workers, and indigenous and tribal peoples in a number of countries. In some countries, it has noted an apparent rise in racism, intolerance and xenophobia. It has pointed to the effects of multiple and compounded discrimination against women on grounds of race and sex, and the negative economic consequences of such discrimination. It has encouraged Governments to adopt comprehensive strategies and mechanisms to eradicate direct and indirect discrimination and to promote equality of opportunity and treatment in employment and occupation. At the same time, it has welcomed the strengthening of laws aimed at prohibiting and punishing racial discrimination in the workplace and the taking of various measures to improve access to vocational training and employment for men and women who have suffered discrimination and exclusion from the labour market. It has requested Governments to make assessments, based on indicators and disaggregated statistical data, of the impact of their policies, measures and other activities on the distribution of men and women of particular groups in the various sectors of economic activity, at different occupational and seniority levels, and in respect of access to education, occupational guidance, vocational training and employment. The Committee has emphasized the link between racism in the society and in the labour market and the importance of Governments' taking steps to promote tolerance, respect and understanding among all groups in society.

3. The International Labour Office continues to provide technical assistance and advisory services to member States which wish to ratify this Convention or to apply it more fully. It has, for instance, provided technical advice to a number of countries, assisted in the drafting of laws on non-discrimination and provided education and training through the holding of national seminars in a number of countries, including Brazil, China, Estonia and Uganda. A subregional training seminar for judges on discrimination issues will be held for Eastern Africa in May 2001. A manual on discrimination at work, which will highlight the legal requirements as well as provide strategic guidance for the practical application of Convention No. 111, is under preparation. ILO is undertaking research in several countries on the causes and manifestations of racial, ethnic and gender discrimination in the workplace. It is also reviewing documentation on the impact and effectiveness of equality policies at the national and enterprise level.

Migrant workers

4. ILO has a substantive programme on international migration, including provision of policy advice and technical assistance to Governments, activities to enhance protection of migrants and discourage discrimination, and extensive research and documentation, notably the on-line International Labour Migration Database. This work is based on the relevant ILO Conventions, which are for now the only international instruments in force on this subject.

5. Over the past year, pioneering work in documenting and identifying remedies to discrimination in employment against migrant and ethnic minority workers was expanded. New research efforts to identify and disseminate good practice remedies to discrimination have been initiated, including a joint project with the Council of Europe Expert Working Group on Integration.

6. With ILO support, significant steps have been taken by several countries, notably Costa Rica, Indonesia, the Republic of Korea, Spain, Sweden and Tajikistan, to adopt policies or enact new legislation based on ILO principles and guidelines for the protection and welfare of migrant workers. ILO cooperated extensively with the joint United Nations inter-agency International Migration Policy Programme (IMP) in providing training to senior government migration officials in Central Asia and the Caucasus, Eastern Europe and Southern Africa, particularly regarding issues of the protection of the human and labour rights of migrant workers. In order to promote recognition of contributions by migrant workers to their host and home countries, the Office helped initiate a recommendation adopted last year by the Commission which led to the proclamation by the United Nations General Assembly of 18 December as International Migrants Day.

Indigenous and tribal peoples

7. ILO is responsible for the only two international conventions relating directly to these peoples, the Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the earlier Convention No. 107. Much of the supervisory work carried out by ILO on them relates to the effects of racial discrimination, or exclusion from the same opportunities for development as are enjoyed by the rest of the national population. The work of ILO in this area, taking Convention No. 169 as a basis, is to provide equality of opportunity and treatment in all spheres of life, while not sacrificing the ability of these peoples to retain their own ways of life, cultures, etc.

8. It is worth noting that a number of representations have been filed in recent years on the application of Convention No. 169, for the first time. Representations are forms of complaint provided for in the ILO Constitution for allegations that ratified Conventions are not being implemented. While it is difficult to characterize generally the problems raised in these representations, they tend to indicate a lack of effective involvement of these peoples in decisions taken at the national level which affect them, particularly in relation to land rights and development issues.

9. In addition to its supervisory work, ILO carries out a good deal of technical assistance aimed at improving the living and working conditions of indigenous and tribal peoples around the world. Traditionally, most ILO work on this subject has been carried out in Latin America, but in recent years it has expanded into both Africa and Asia. The DANIDA-funded Project to Promote ILO Policy on Indigenous and Tribal Peoples aims to promote the application of the principles of Convention No. 169 and works at the policy level, primarily in south and south-east Asia and Africa. The ILO-INDISCO Programme aims to promote self-reliance of indigenous and tribal peoples through the establishment of cooperatives and other self-help groups. There are also a number of ILO technical cooperation programmes and projects that do not take indigenous and tribal peoples as their specific focus, but necessarily address issues that are of particular relevance to indigenous and tribal peoples. These include the In-focus Programme on Child Labour (IPEC), in addition to a number of other activities, including those undertaken by the Employment Intensive Investment Branch that have addressed, in particular, marginalized sectors of society, including indigenous and tribal peoples, in a number of countries in Africa and Asia.

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

10. As set out in the Director-General's report on decent work, the primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. The promotion of this goal includes ensuring that all men and women workers are able to engage in productive activities free from hindrance of racial bias or discriminatory treatment. Thus, the objectives proclaimed for the World Conference fully correspond to the mandate and activities of ILO as they relate to the world of work. A world free from racism and xenophobia cannot be realized without specifically addressing the situation in the workplace, which is of fundamental importance for the prosperity, development and dignity of the individual.

11. ILO has taken an active part in the preparatory process for the World Conference and will continue to do so. The Office was represented at the regional preparatory conferences and expert seminars convened in the context of the preparations for the World Conference. Written background material was provided to the first session of the Preparatory Committee. Several parts of the Office are carrying out studies and projects in the field of racial discrimination, some of which are mentioned above. ILO welcomes the fact that issues relating to racial discrimination and xenophobia at work have been taken up by the regional preparatory conferences and seminars.

12. Drawing on its long experience in promoting the principle of non-discrimination in employment and occupation, ILO cannot but conclude that discrimination in the workplace on the grounds of race, colour, ethnic or social origin as well as nationality continues to occur worldwide. Such discrimination seriously affects the full enjoyment of the right to decent work, including access to employment, just and favourable conditions of work, social protection and the right to education, including vocational training and guidance. Moreover, the gender implications of racial discrimination at work, in particular multiple discrimination suffered by women, must be recognized and adequately addressed. Beyond the level of the individual, xenophobic and discriminatory policies and measures in employment can also lead to ethnic tensions in society, in some cases even to open conflict. Comprehensive strategies to eliminate racism in all its forms thus need to take into account fundamental rights and principles at work and the need to ensure their full and effective implementation, as well as the social and economic causes and effects of such discrimination.

13. ILO Convention No. 111 on discrimination in employment and occupation is one of the key international instruments for combating racism, racial discrimination, xenophobia and related intolerance. The Programme of Action of the 1978 World Conference to Combat Racism specifically stated that action taken at the national level should include ratification of ILO Convention No. 111, as soon as possible. The Programme of Action of the 1983 World Conference reiterated this call and appealed to States which had not yet done so to consider ratifying the Convention, as soon as possible. The forthcoming World Conference should therefore build on the achievements of the previous World Conferences and call for early ratification and application of Convention No. 111, as an integral part and objective of the follow-up to the World Conference. As of today, 146 countries have ratified Convention No. 111.

14. Migrant workers, minority workers and indigenous and tribal peoples are among those particularly vulnerable to discrimination at work and in education. Their vulnerability to racial discrimination relates in particular to issues such as access to training, including vocational training and guidance, education, lack of participation and consultation in decision-making and other aspects of social, political and economic life. Exclusion and marginalization are also caused or aggravated by linguistic and cultural differences. Racial discrimination and xenophobia are among the root causes of the often disproportionately high rate of unemployment among members of these groups. Special measures, including the formulation and implementation of programmes and policies, which are firmly based on relevant international standards are necessary to address the situation of these affected groups. In this context, the World Conference should call upon States to ratify and apply the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the ILO Migrant Workers Convention (Supplementary Provisions), 1975 (No. 143), as well as the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

15. Effectively combating racism, racial discrimination, xenophobia and related intolerance requires joint efforts by Governments, workers' and employers' organizations, and non-governmental organizations. Moreover, those directly affected by racially discriminatory treatment and practices, including in particular minorities, migrant workers, women and indigenous and tribal peoples, need to have a voice in the process of eliminating racism in all its forms. Based on its tripartite structure and tradition, ILO has long experience in promoting and engaging in social dialogue as one tool to realize its objectives. States parties to Convention No. 111 have the obligation to seek the cooperation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of their national policy for achieving equality of opportunity and treatment in respect of employment and occupation. Awareness raising, non-discrimination training and education at all levels, in particular for those holding key positions in labour market institutions, are essential elements of any strategy to combat racism, racial discrimination, xenophobia and related intolerance in employment.

16. Efforts for the progressive elimination of child labour, giving priority to its worst forms, and efforts to condemn and effectively combat racism and related intolerance against children are fully complementary. Child labour is to a large extent caused by poverty, and poverty invariably afflicts victims of racism and intolerance more than others, mostly as the result of their inadequate access to fixed assets, such as land or capital, or reduced opportunities for income generation. On the other hand, child labour, particularly in its worst forms, perpetuates poverty and inequality along racial lines by disproportionately denying children from affected groups the opportunity to develop the human capabilities needed in productive life and to benefit from economic growth. Moreover, children who are effectively denied education because of racism and related intolerance are also amongst the most vulnerable to child labour. Poverty and lack of educational and occupational opportunities create a breeding ground for some of the worst forms of child labour, such as the sale and trafficking of children for sexual or labour exploitation, the victims of which disproportionately originate from families particularly affected by racism and related intolerance. In order to address the racial implications of child labour, it is crucial that States progressively realize the right of the child to education on the basis of equality as a key strategy to prevent child labour. They should also ensure, without discrimination as to race, colour, and ethnic or social origin, that the laws governing the minimum age for admission

to employment or work apply to and are enforced equally for all children, and that children withdrawn from the worst forms of child labour are protected and reintegrated without such discrimination. The World Conference should call upon States to ratify and apply the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and the ILO Minimum Age Convention, 1973 (No. 138).

17. Mechanisms, procedures and institutions at the national level to address cases of racism, racial discrimination, xenophobia and related intolerance are crucial, in particular in the field of employment. Effective remedies against racially discriminatory treatment, including as regards the hiring process, promotion, working conditions and social benefits, are necessary to provide justice and redress for victims. At the same time, they contribute to preventing racism and racial discrimination in the future. Remedies may be judicial or non-judicial, as is the case with national human rights institutions, specialized bodies to monitor non-discrimination, and ombudsmen. Such bodies and institutions should be mandated to take practical measures to foster understanding and acceptance of the principles of non-discrimination; to receive, examine and investigate complaints; to undertake conciliation efforts; and to adopt opinions or decisions aimed at the correction of discriminatory practices.

18. The overall success of the World Conference will depend on whether it is able to create a momentum that leads to a measurable and sustainable improvement of the situation of those affected, including working men and women. ILO therefore believes that the Conference should adopt a follow-up which integrates and reinforces activities in the field of eliminating racism, racial discrimination, xenophobia and related intolerance at all levels. The global report on non-discrimination in employment and occupation to be issued in 2003 in follow-up to the ILO Declaration on Fundamental Rights and Principles at Work will be among the ILO contributions to this process.